N.J. Department of Law & Public Safety
Division of Consumer Affairs

As of June 2003

Consumer Fraud Act

(N.J.S.A. 56:8-1 et seq.)

LAPS New Jersey Department of Law & Public Safety
Division of CONSUMER AFFAIRS

N.J. Department of Law & Public Safety
Division of Consumer Affairs

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Consumer Fraud Act

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Guide to Statutes

Consumer Fraud Act

Consumer Protection Leasing Act

New Jersey Statutes Annotated
Title 56, Chapter 8.
Frauds, etc., in Sales or Advertisements of Merchandise

56:8-1. Definitions

(a) The term "advertisement" shall include the attempt directly or indirectly by publication, dissemination, solicitation, indorsement or circulation or in any other way to induce directly or indirectly any person to enter or not enter into any obligation or acquire any title or interest in any merchandise or to increase the consumption thereof or to make any loan;

(b) The term "Attorney General" shall mean the Attorney General of the State of New Jersey or any person acting on his behalf;

(c) The term "merchandise" shall include any objects, wares, goods, commodities, services or anything offered, directly or indirectly to the public for sale;

(d) The term "person" as used in this act shall include any natural person or his legal representative, partnership, corporation, company, trust, business entity or association, and any agent, employee, salesman, partner, officer, director, member, stockholder, associate, trustee or cestuis que trustent thereof;

(e) The term "sale" shall include any sale, rental or distribution, offer for sale, rental or distribution or attempt directly or indirectly to sell, rent or distribute;

(f) The term "senior citizen" means a natural person 60 years of age or older.

56:8-1.1. Temporary help service; inclusion within definition of merchandise; rules or regulations; fees

Services provided by a temporary help service firm shall constitute services within the term "merchandise" pursuant to P.L.1960, c.39, s. 1 (C. 56:8-1(c)), and the provisions of P.L.1960, c.39 (C. 56:8-1 et seq.), shall apply to the operation of a temporary help service firm.

The Attorney General shall promulgate rules and regulations pursuant to P.L.1960, c.39, s. 4 (C. 56:8-4). The Attorney General shall, by rule or regulation, establish, prescribe or change an annual fee or charge on tem-

porary help service firms to such extent as shall be necessary to defray all proper expenses incurred by his office in the performance of its duties under this section of this act but such fees or charges shall not be fixed at a level that will raise amounts in excess of the amount estimated to be so required. In addition to any other appropriate requirements, the Attorney General shall, by rule or regulation require the following:

a. Each temporary help service firm operating within the State of New Jersey shall, prior to the effective date of this act or commencement of operation and annually thereafter, notify the Attorney General as to its appropriate name, if applicable; the trade name of its operation; its complete address, including street and street number of the building and place where its business is to be conducted; and the names and resident addresses of its officers. Each principal or owner shall provide an affidavit to the Attorney General setting forth whether such principal or owner has ever been convicted of a crime.

b. When a temporary help service firm utilizes any location other than its primary location for the recruiting of applicants, including mobile locations, it shall notify the Office of the Attorney General of such fact in writing or by telephone, and subsequently confirm in writing prior to the utilization of such facility.

c. Each temporary help service firm shall at the time of its initial notification to the Attorney General, and annually thereafter, post a bond of $1,000.00 with the Attorney General to secure compliance with P.L.1960, c. 39 (C. 56:8-1 et seq.) as amended and supplemented, provided however that the Attorney General may waive such bond for any corporation or entity having a net worth of $100,000 or more.

56:8-2. Fraud, etc., in connection with sale or advertisement of merchandise or real estate as unlawful practice

The act, use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing, concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise or real estate, or with the subsequent performance of such person as aforesaid, whether or not any person has in fact been misled, deceived or damaged thereby, is declared to be an unlawful practice; provided, however, that nothing herein contained shall apply to the owner or publisher of

newspapers, magazines, publications or printed matter wherein such advertisement appears, or to the owner or operator of a radio or television station which disseminates such advertisement when the owner, publisher, or operator has no knowledge of the intent, design or purpose of the advertiser.

56:8-2.1. Operation simulating governmental agency as unlawful practice

It shall be an unlawful practice for any person to operate under a name or in a manner which wrongfully implies that such person is a branch of or associated with any department or agency of the Federal Government or of this State or any of its political subdivisions, or use any seal, insignia, envelope or other format which simulates that of any governmental department or agency.

56:8-2.2. Scheme to not sell item or service advertised

The advertisement of merchandise as part of a plan or scheme not to sell the item or service so advertised or not to sell the same at the advertised price is an unlawful practice and a violation of the act to which this act is a supplement.

56:8-2.3. Notification to person that he has won prize and requiring him to perform act

The notification to any person by any means, as a part of an advertising plan or scheme, that he has won a prize and requiring him to do any act, purchase any other item or submit to a sales promotion effort is an unlawful practice and a violation of the act to which this act is a supplement.

56:8-2.4. Advertisement of unassembled merchandise as assembled in picture or illustration; prohibition

It shall be an unlawful practice for a person to advertise merchandise for sale accompanied by a picture or illustration of the merchandise in an assembled condition when it is intended to be sold unassembled, unless the advertisement bears the notation that the merchandise is to be sold unassembled.

56:8-2.5. Sale, attempt to sell or offer for sale of merchandise without tag or label with selling price

It shall be an unlawful practice for any person to sell, attempt to sell or offer for sale any merchandise at retail unless the total selling price of such

merchandise is plainly marked by a stamp, tag, label or sign either affixed to the merchandise or located at the point where the merchandise is offered for sale.

56:8-2.6. Daily failure to tag as separate violation

For the purposes of this act, each day for which the total selling price is not marked in accordance with the provisions of this act for each group of identical merchandise shall constitute a separate violation of this act and the act of which this act is a supplement.

56:8-2.7. Solicitation of funds or contributions, or sale or offer for sale of goods or services under false representation of solicitation for charitable or nonprofit organization or of benefit for handicapped persons

It shall be an unlawful practice for any person to solicit funds or a contribution of any kind, or to sell or offer for sale any goods, wares, merchandise or services, by telephone or otherwise, where it has been falsely represented by such person or where the consumer has been falsely led to believe that such person is soliciting by or on behalf of any charitable or nonprofit organization, or that a contribution to or purchase from such person shall substantially benefit handicapped persons.

56:8-2.8. "Going out of business sale"; time limits

It shall be an unlawful practice for any person to advertise merchandise for sale as a "going out of business sale" or in terms substantially similar to "going out of business sale" for a period in excess of 90 days or to advertise more than one such sale in 360 days. The 360-day period shall commence on the first day of such sale. For any person in violation of this act, each day in violation shall constitute an additional, separate and distinct violation.

56:8-2.9. Misrepresentation of identity of food in menus or advertisements of eating establishments

It shall be an unlawful practice for any person to misrepresent on any menu or other posted information, including advertisements, the identity of any food or food products to any of the patrons or customers of eating establishments including but not limited to restaurants, hotels, cafes, lunch counters or other places where food is regularly prepared and sold for consumption on or off the premises. This section shall not apply to any section

or sections of a retail food or grocery store which do not provide facilities for on the premises consumption of food or food products.

56:8-2.10. Acts constituting misrepresentation of identity of food

The identity of said food or food products shall be deemed misrepresented if:

a. Its description is false or misleading in any particular;

b. Its description omits information which by its omission renders the description false or misleading in any particular;

c. It is served, sold, or distributed under the name of another food or food product;

d. It purports to be or is represented as a food or food product for which a definition of identity and standard of quality has been established by custom and usage unless it conforms to such definition and standard.

56:8-2.11. Violations; liability

Any person violating the provisions of the within act shall be liable for a refund of all moneys acquired by means of any practice declared herein to be unlawful.

56:8-2.12. Recovery of refund in private action

The refund of moneys herein provided for may be recovered in a private action or by such persons authorized to initiate actions pursuant to P.L.1975, c. 376 (C. 40:23-6.47 et seq.).

56:8-2.13. Cumulation of rights and remedies; construction of act

The rights, remedies and prohibitions accorded by the provisions of this act are hereby declared to be in addition to and cumulative of any other right, remedy or prohibition accorded by the common law or statutes of this State, and nothing contained herein shall be construed to deny, abrogate or impair any such common law or statutory right, remedy or prohibition.

56:8-2.14. Short title

This act shall be known and may be cited as the “Refund Policy Disclosure Act.”

56:8-2.15. Definitions

As used in this act:

a. “Merchandise” means any objects, wares, goods, commodities, or any other tangible items offered, directly or indirectly, to the public for sale.

b. “Proof of purchase” means a receipt, bill, credit card slip, or any other form of evidence which constitutes reasonable proof of purchase.

c. “Retail mercantile establishment” means any place of business where merchandise is exposed or offered for sale at retail to members of the consuming public.

56:8-2.16. Posting of signs; locations

Every retail mercantile establishment shall conspicuously post its refund policy as to all merchandise on a sign in at least one of the following locations:

a. Attached to the item itself, or

b. Affixed to each cash register or point of sale, or

c. So situated as to be clearly visible to the buyer from the cash register, or

d. Posted at each store entrance used by the public.

56:8-2.17. Signs; contents

Any sign required by section 3 of this act[1] to be posted in retail mercantile establishments shall state whether or not it is a policy of such establishment to give refunds and, if so, under what conditions, including, but not limited to, whether a refund will be given:

a. On merchandise which has been advertised as “sale” merchandise or marked “as is”;

b. On merchandise for which no proof of purchase exists;

c. At any time or not beyond a point in time specified; or

d. In cash, or as credit or store credit only.

[1]Section 56:8-2.16

56:8-2.18. Penalties; refunds or credits to buyers

A retail mercantile establishment violating any provision of this act shall be liable to the buyer, for up to 20 days from the date of purchase, for a cash refund or a credit, at the buyer's option, provided that the merchandise has not been used or damaged by the buyer.

56:8-2.19. Posting of signs; exceptions

The provisions of section 3[1] shall not apply to retail mercantile establishments or departments that have a policy of providing, for a period of not less than 20 days after the date of purchase, a cash refund for a cash purchase or providing a cash refund or issuing a credit for a credit purchase, which credit is applied to the account on which the purchase was debited, in connection with the return of its unused and undamaged merchandise.

[1]Section 56:8-2.16

56:8-2.20. Motor vehicle; perishables; custom merchandise; non-returnable merchandise; application of act

This act shall not apply to sales of motor vehicles, or perishables and incidentals to such perishables, or to custom ordered, custom finished merchandise, or merchandise not returnable by law.

56:8-2.21. Jurisdiction; penalties; cash refund; credit; damages

a. An individual action for a violation of this act may be brought in a municipal court in whose jurisdiction the sale was made.

b. In addition to the penalties provided for in section 5,[1] a retail mercantile establishment that fails to comply with the requirements of this act and, in practice, does not have a policy as provided in section 6 [2] and has refused to accept the return of the merchandise shall be liable to the consumer for:

(1) A cash refund or a credit, at the buyer's option, provided the merchandise has not been used or damaged, and

(2) Damages of not more than $200.00.

[1]Section 56:8-2.18

[2]Section 56:8-2.19

56:8-2.22. Copy of transaction or contract; provision to consumer

It shall be an unlawful practice for a person in connection with a sale of merchandise to require or request the consumer to sign any document as evidence or acknowledgment of the sales transaction, of the existence of the sales contract, or of the discharge by the person of any obligation to the consumer specified in or arising out of the transaction or contract, unless he shall at the same time provide the consumer with a full and accurate copy of the document so presented for signature but this section shall not be applicable to orders placed through the mail by the consumer for merchandise.

56:8-2.23. Solicitation of used goods or wares by profit-making enterprise; disclosures

It shall be an unlawful practice for any person, other than a charitable or nonprofit organization, engaged in the business of selling used goods, wares or merchandise for profit to solicit, by telephone, by the placement of collection boxes or otherwise, donations of used goods, wares or merchandise for resale for profit, without first disclosing to the person solicited the profit-making nature of the business, or if profits are to be shared with a charitable or nonprofit organization, the portion of profits which that organization will receive. For the purposes of this act, "engaged in the business of selling used goods, wares or merchandise" means anyone who conducts sales more than five times a year.

56:8-2.24. Repealed by L.1998, c. 5, § 2, eff. April 3, 1998

56:8-2.25. Misrepresentation of geographic origin or location of merchandise

a. It shall be an unlawful practice for any person conducting or transacting business under an assumed name and filing a certificate pursuant to R.S.56:1-2 to intentionally misrepresent that person's geographic origin or location or the geographic origin or location of any merchandise.

b. A person engaged in the business of advertising shall be immune from liability under this section for receiving, accepting or publishing any advertisement, irrespective of the medium or format, submitted or developed for any person conducting or transacting business under an assumed name.

56:8-2.26. Discriminatory rates; involuntary towing and storage by municipality or county

It shall be an unlawful practice and a violation of P.L.1960, c. 39 (C.56:8-1 et seq.) for any person to charge rates which are discriminatory or are not usual, customary and reasonable rates for the towing and storage of motor vehicles as provided in section 3 of P.L.1997, c.387(C.40:84-2.54).

56:8-2.27. Sale of non-prescription drugs, infant formula and baby food beyond expiration date

It shall be an unlawful practice for any person to sell or offer to sell to the public:

a. any non-prescription drug, infant formula or baby food, which is subject to expiration dating requirements issued by the federal Food and Drug Administration, if the date of expiration has passed; and

b. any infant formula or baby food which is subject to expiration dating requirements issued by the federal Food and Drug Administration, any non-prescription drug, or any cosmetic as defined in subsection h. of R.S.24:1-1, unless that person presents, within five days of the request, a written record of the purchase of that product, which record or invoice shall specifically identify the product being sold by the product name, quantity purchased, that quantity being denoted by item, box, crate, pallet or otherwise, and date of purchase and shall contain the complete name or business name, address and phone number of the person from whom that product was purchased. The provisions of this subsection shall not apply to a transaction involving less than $50 of product between persons selling that product in the same general market area on the same day.

56:8-3. Investigation by attorney general; powers and duties

When it shall appear to the Attorney General that a person has engaged in, is engaging in, or is about to engage in any practice declared to be unlawful by this act, or when he believes it to be in the public interest that an investigation should be made to ascertain whether a person in fact has engaged in, is engaging in or is about to engage in, any such practice, he may:

(a) Require such person to file on such forms as are prescribed a statement or report in writing under oath or otherwise, as to all the facts and circumstances concerning the sale or advertisement of mer-

chandise by such person, and such other data and information as he may deem necessary;

(b) Examine under oath any person in connection with the sale or advertisement of any merchandise;

(c) Examine any merchandise or sample thereof, record, book, document, account or paper as he may deem necessary; and

(d) Pursuant to an order of the Superior Court impound any record, book, document, account, paper, or sample of merchandise that is produced in accordance with this act, and retain the same in his possession until the completion of all proceedings in connection with which the same are produced.

56:8-3.1. Violations; penalty

Upon receiving evidence of any violation of the provisions of chapter 39 of the laws of 1960,[1] the Attorney General, or his designee, is empowered to hold hearings upon said violation and upon finding the violation to have been committed, to assess a penalty against the person alleged to have committed such violation in such amount within the limits of chapter 39 of the laws of 1966 as the Attorney General deems proper under the circumstances. Any such amounts collected by the Attorney General shall be paid forthwith into the State Treasury for the general purposes of the State.

[1]Section 56:8-1 et seq.

56:8-4. Additional powers

To accomplish the objectives and to carry out the duties prescribed by this act, the Attorney General, in addition to other powers conferred upon him by this act, may issue subpoenas to any person, administer an oath or affirmation to any person, conduct hearings in aid of any investigation or inquiry, promulgate such rules and regulations, and prescribe such forms as may be necessary, which shall have the force of law.

56:8-5. Service of notice by attorney general

Service by the Attorney General of any notice requiring a person to file a statement or report, or of a subpoena upon any person, shall be made personally within this State, but if such cannot be obtained, substituted service therefor may be made in the following manner:

(a) Personal service thereof without this State; or

(b) The mailing thereof by registered mail to the last known place of business, residence or abode, within or without this State of such person for whom the same is intended; or

(c) As to any person other than a natural person, in accordance with the Rules Governing the Courts of the State of New Jersey pertaining to service of process, provided, however, that service shall be made by the Attorney General; or

(d) Such service as the Superior Court may direct in lieu of personal service within this State.

56:8-6. Failure or refusal to file statement or report or obey subpoena issued by attorney general; punishment

If any person shall fail or refuse to file any statement or report, or obey any subpoena issued by the Attorney General, the Attorney General may apply to the Superior Court and obtain an order:

(a) Adjudging such person in contempt of court;

(b) Granting injunctive relief without notice restraining the sale or advertisement of any merchandise by such persons;

(c) Vacating, annulling, or suspending the corporate charter of a corporation created by or under the laws of this State or revoking or suspending the certificate of authority to do business in this State of a foreign corporation or revoking or suspending any other licenses, permits or certificates issued pursuant to law to such person which are used to further the allegedly unlawful practice; and

(d) Granting such other relief as may be required; until the person files the statement or report, or obeys the subpoena.

56:8-7. Self-incrimination; exemption from prosecution or punishment

If any person shall refuse to testify or produce any book, paper or other document in any proceeding under this act for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him, convict him of a crime, or subject him to a penalty or forfeiture, and shall, notwithstanding, be directed to testify or to produce such book, paper or document, he shall comply with such direction.

A person who is entitled by law to, and does assert such privilege, and who complies with such direction shall not thereafter be prosecuted or sub-

jected to any penalty or forfeiture in any criminal proceeding which arises out of and relates to the subject matter of the proceeding. No person so testifying shall be exempt from prosecution or punishment for perjury or false swearing committed by him in giving such testimony.

56:8-8. Injunction against unlawful practices; appointment of receiver; additional penalties

Whenever it shall appear to the Attorney General that a person has engaged in, is engaging in or is about to engage in any practice declared to be unlawful by this act he may seek and obtain in a summary action in the Superior Court an injunction prohibiting such person from continuing such practices or engaging therein or doing any acts in furtherance thereof or an order appointing a receiver, or both. In addition to any other remedy authorized herein the court may enjoin an individual from managing or owning any business organization within this State, and from serving as an officer, director, trustee, member of any executive board or similar governing body, principal, manager, stockholder owning 10% or more of the aggregate outstanding capital stock of all classes of any corporation doing business in this State, vacate or annul the charter of a corporation created by or under the laws of this State, revoke the certificate of authority to do business in this State of a foreign corporation, and revoke any other licenses, permits or certificates issued pursuant to law to such person whenever such management, ownership, activity, charter authority license, permit or certificate have been or may be used to further such unlawful practice. The court may make such orders or judgments as may be necessary to prevent the use or employment by a person of any prohibited practices, or which may be necessary to restore to any person in interest any moneys or property, real or personal which may have been acquired by means of any practice herein declared to be unlawful.

56:8-9. Powers and duties of receiver

When a receiver is appointed by the court pursuant to this act, he shall have the power to sue for, collect, receive and take into his possession all the goods and chattels, rights and credits, moneys and effects, lands and tenements, books, records, documents, papers, choses in action, bills, notes and property of every description, derived by means of any practice declared to be illegal and prohibited by this act, including property with which such property has been mingled, if it cannot be identified in kind because of such commingling, and to sell, convey, and assign the same and hold and dispose of the proceeds thereof under the direction of the court. Any person who has suffered damages as a result of the use or employment of

any unlawful practices and submits proof to the satisfaction of the court that he has in fact been damaged, may participate with general creditors in the distribution of the assets to the extent he has sustained out-of-pocket losses. In the case of a corporation, partnership or business entity the receiver shall settle the estate and distribute the assets under the direction of the court, and he shall have all the powers and duties conferred upon receivers by the provisions of Title 14, Corporations, General,[1] so far as the provisions thereof are applicable. The court shall have jurisdiction of all questions arising in such proceedings and may make such orders and judgments therein as may be required.

[1] Repealed; see, now, Title 14A.

56:8-10. Claims against persons acquiring money or property by unlawful practices

Subject to an order of the court terminating the business affairs of any person after receivership proceedings held pursuant to this act, the provisions of this act shall not bar any claim against any person who has acquired any moneys or property, real or personal, by means of any practice herein declared to be unlawful.

56:8-11. Costs in actions or proceedings brought by attorney general

In any action or proceeding brought under the provisions of this act, the Attorney General shall be entitled to recover costs for the use of this State.

56:8-12. Partial invalidity

If any provision of this law or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the law which can be given effect without the invalid provision or application, and to this end the provisions of this law are severable.

56:8-13. Penalty for violations

Any person who violates any of the provisions of the act to which this act is a supplement shall, in addition to any other penalty provided by law, be liable to a penalty of not more than $7,500 for the first offense and not more than $15,000 for the second and each subsequent offense. The penalty shall be exclusive of and in addition to any moneys or property or-

dered to be paid or restored to any person in interest pursuant to section 2 of P.L.1966, c. 39 (C.56:8-14) or section 3 of P.L.1971, c. 247 (C.56:8-15).

56:8-14. Collection and enforcement of penalty; process; restoration of moneys or property unlawfully acquired; warrant of arrest to satisfy civil penalty

The Superior Court and every municipal court shall have jurisdiction of proceedings for the collection and enforcement of a penalty imposed because of the violation, within the territorial jurisdiction of the court, of any provision of the act to which this act is a supplement. Except as otherwise provided in this act the penalty shall be collected and enforced in a summary proceeding pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). Process shall be either in the nature of a summons or warrant and shall issue in the name of the State, upon the complaint of the Attorney General or any other person.

In any action brought pursuant to this section to enforce any order of the Attorney General or his designee the court may, without regard to jurisdictional limitations, restore to any person in interest any moneys or property, real or personal, which have been acquired by any means declared to be unlawful under this act, except that the court shall restore to any senior citizen twice the amount or value, as the case may be, of any moneys or property, real or personal, which have been acquired by any means declared to be unlawful under P.L.1960, c. 39 (C.56:8-1 et seq.).

In the event that any person found to have violated any provision of this act fails to pay a civil penalty assessed by the court, the court may issue, upon application by the Attorney General, a warrant for the arrest of such person for the purpose of bringing him before the court to satisfy the civil penalty imposed.

A person who fails to restore any moneys or property, real or personal, found to have been acquired unlawfully from a senior citizen shall be subject to punishment for criminal contempt pursuant to N.J.S.2C:29-9, which is a crime of the fourth degree.

56:8-14.1. Actions by director of county or municipal office of consumer affairs; award of penalties, fines, fees and costs

In any action in a court of appropriate jurisdiction initiated by the director of any certified county or municipal office of consumer affairs, the office of consumer affairs shall be entitled, if successful in the action, to

such penalties, fines or fees as may be authorized pursuant to chapter 8 of Title 56 of the Revised Statutes and awarded by the court, and to the reasonable costs of any such action, including investigative and legal costs, as may be filed with and approved by the court. Such costs shall be in addition to the taxed costs authorized in successful proceedings under the Rules Governing the Courts of the State of New Jersey.

As used in this section, "court of appropriate jurisdiction" includes a municipal court in the municipality where the offense was committed or where the defendant may be found. However, the term shall not include a municipal court in a city of the First Class if the Chief Justice of the Supreme Court approves a recommendation submitted by the assignment judge of the vicinage in which the court is located to exempt that court from such jurisdiction.

All moneys collected pursuant to this section shall be paid to the officer lawfully charged with the custody of the general funds of the county or municipality.

56:8-14.2. Definitions

As used in this act:

"Fund" means the Consumer Fraud Education Fund created pursuant to section 5 of this act.

"Pecuniary injury" shall include, but not be limited to: loss or encumbrance of a primary residence, principal employment, or source of income; loss of property set aside for retirement or for personal or family care and maintenance; loss of payments received under a pension or retirement plan or a government benefits program; or assets essential to the health or welfare of the senior citizen or person with a disability.

"Person with a disability" means any resident of this State who has a physical disability, infirmity, malformation or disfigurement which is caused by bodily injury, birth defect or illness including epilepsy, and which shall include, but not be limited to, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment or physical reliance on a service or guide animal, wheelchair, or other remedial appliance or device, or from any mental, psychological or developmental disability resulting from anatomical, psychological, physiological or neurological conditions which prevents the normal exercise of any bodily or mental functions or is demonstrable, medically or psychologically, by accepted clinical or laboratory diagnostic techniques.

"Senior citizen" means any resident of this State of the age of 60 years or over.

56:8-14.3. Additional penalties

a. In addition to any other penalty authorized by law, a person who violates the provisions of P.L.1960, c. 39 (C.56:8-1 et seq.) shall be subject to additional penalties as follows:

(1) A penalty of not more than $10,000 if the violation caused the victim of the violation pecuniary injury and the person knew or should have known that the victim is a senior citizen or a person with a disability; or

(2) A penalty of not more than $30,000 if the violation was part of a scheme, plan, or course of conduct directed at senior citizens or persons with disabilities in connection with sales or advertisements.

The requirement of actual or constructive knowledge is applicable to the additional penalty provided under paragraph (1) of this subsection only, and is not required to prove a violation of any other provision of P.L. 1960, c. 39 (C.56:8-1 et seq.).

b. The civil penalties authorized and collected under subsection a. of this section shall be paid to the State Treasurer and credited to the Consumer Fraud Education Fund created pursuant to section 5 of P.L.1999, c. 129 (C.56:8-14.6).

56:8-14.4. Restoration of money or property; priority

Restoration of money or property ordered pursuant to section 2 of P.L.1966, c. 39 (C.56:8-14) or section 3 of P.L.1971, c. 247 (C.56:8-15) shall be given priority over imposition of the additional civil penalties authorized under section 2 of P.L.1999, c. 129 (C.56:8-14.3).

56:8-14.5. Educational program for senior citizens and persons with disabilities; consumer protection

The Director of the Division of Consumer Affairs in the Department of Law and Public Safety, in consultation with the Director of the Division on Aging in the Department of Community Affairs, the directors of the New Jersey Association of Area Agencies on Aging and the New Jersey Association of County Offices for Disabled Persons, shall develop and implement an educational program to inform senior citizens and persons with

disabilities about consumer protection laws and consumer rights, subject to funds made available pursuant to subsection b. of section 5 of P.L.1999, c. 129 (C.56:8-14.6) or any other source. Functions of the program may include:

a. The preparation of educational materials regarding consumer protection laws and consumer rights that are of particular interest to senior citizens and persons with disabilities and distribution of those materials to the appropriate State and county agencies for dissemination to senior citizens, persons with disabilities and the public; and

b. The underwriting of educational seminars and other forms of educational projects for the benefit of senior citizens and persons with disabilities.

56:8-14.6. Consumer Fraud Education Fund

a. There is established in the General Fund a special fund to be known as the Consumer Fraud Education Fund. The State Treasurer shall credit to the fund all moneys received by the State for penalties assessed pursuant to section 2 of P.L.1999, c. 129 (C.56:8-14.3). The fund shall be continuing and nonlapsing. The fund shall be administered by the State Treasurer, and any interest earned on moneys in the fund shall be credited to the fund.

b. The Division of Consumer Affairs may draw upon the fund to effectuate the purposes of section 4 of P.L.1999, c. 129 (C.56:8-14.5) and to pay reasonable and necessary administrative expenses incurred in implementing the provisions of this act to the extent that moneys are available.

56:8-14.7. Rules and regulations

The Director of the Division of Consumer Affairs shall, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.), promulgate rules and regulations necessary to effectuate the provisions of this act.

56:8-15. Restoration of moneys or property unlawfully acquired; order

In addition to the assessment of civil penalties, the Attorney General or his designee may, after a hearing as provided in P.L.1967, c. 97 (C.56:8-3.1) and upon a finding of an unlawful practice under this act and the act hereby

amended and supplemented, order that any moneys or property, real or personal, which have been acquired by means of such unlawful practice be restored to any person in interest, except that if any moneys or property, real or personal, have been acquired by means of an unlawful practice perpetrated against a senior citizen, the amount of moneys or property, real or personal, ordered restored shall be twice the amount acquired.

56:8-16. Remission of penalties

In assessing any penalty under this act and the act hereby amended and supplemented, the Attorney General or his designee may provide for the remission of all or any part of such penalty conditioned upon prompt compliance with the requirements thereof and any order entered thereunder.

56:8-17. Failure to pay penalty or restore money or property; certificate of indebtedness; recording as docketed judgment

Upon the failure of any person to comply within 10 days after service of any order of the Attorney General or his designee directing payment of penalties or restoration of moneys or property, the Attorney General may issue a certificate to the Clerk of the Superior Court that such person is indebted to the State for the payment of such penalty and the moneys or property ordered restored. A copy of such certificate shall be served upon the person against whom the order was entered. Thereupon the clerk shall immediately enter upon his record of docketed judgments the name of the person so indebted, and of the State, a designation of the statute under which the penalty is imposed, the amount of the penalty imposed and the amount of moneys ordered restored, a listing of property ordered restored, and the date of the certification. Such entry shall have the same force and effect as the entry of a docketed judgment in the Superior Court. Such entry, however, shall be without prejudice to the right of appeal to the Appellate Division of the Superior Court from the final order of the Attorney General or his designee.

A person who fails to restore moneys or property found to have been acquired unlawfully from a senior citizen shall be subject to punishment for criminal contempt pursuant to N.J.S.2C:29-9, which is a crime of the fourth degree.

56:8-18. Cease and desist order; violations; penalty

Where the Attorney General or his designee, after a hearing as provided in P.L.1967, c. 97,[1] finds that an unlawful practice has been or may

be committed, he may order the person committing such unlawful practice to cease and desist or refrain from committing said practice in the future. When it shall appear to the Attorney General that a person against whom a cease and desist order has been entered has violated said order, the Attorney General may initiate a summary proceeding in the Superior Court for the violation thereof. Any person found to have violated a cease and desist order shall pay to the State of New Jersey civil penalties in the amount of not more than $25,000.00 for each violation of said order. In the event that any person fails to pay a civil penalty assessed by the court for violation of a cease and desist order, the court assessing the unpaid penalty is authorized, upon application of the Attorney General, to grant any relief which may be obtained under any statute or court rule governing the collection and enforcement of penalties.

[1]Section 56:8-3.1.

56:8-19. Action or counterclaim by injured person; recovery of treble damages and costs

Any person who suffers any ascertainable loss of moneys or property, real or personal, as a result of the use or employment by another person of any method, act, or practice declared unlawful under this act or the act hereby amended and supplemented may bring an action or assert a counterclaim therefor in any court of competent jurisdiction. In any action under this section the court shall, in addition to any other appropriate legal or equitable relief, award threefold the damages sustained by any person in interest. In all actions under this section, including those brought by the Attorney General, the court shall also award reasonable attorneys' fees, filing fees and reasonable costs of suit.

56:8-19.1. Punitive damages; no right of recovery; requirements

Notwithstanding any provision of P.L.1960, c. 39 (C.56:8-1 et seq.) to the contrary, there shall be no right of recovery of punitive damages, attorney fees, or both, under section 7 of P.L.1971, c. 247 (C.56:8-19), against a real estate broker, broker-salesperson or salesperson licensed under R.S.45:15-1 et seq. for the communication of any false, misleading or deceptive information provided to the real estate broker, broker-salesperson or salesperson, by or on behalf of the seller of real estate located in New Jersey, if the real estate broker, broker-salesperson or salesperson demonstrates that he:

a. Had no actual knowledge of the false, misleading or deceptive character of the information; and

b. Made a reasonable and diligent inquiry to ascertain whether the information is of a false, misleading or deceptive character. For purposes of this section, communications by a real estate broker, broker-salesperson or salesperson which shall be deemed to satisfy the requirements of a "reasonable and diligent inquiry" include, but shall not be limited to, communications which disclose information:

(1) provided in a report or upon a representation by a person, licensed or certified by the State of New Jersey, including, but not limited to, an appraiser, home inspector, plumber or electrical contractor, of a particular physical condition pertaining to the real estate derived from inspection of the real estate by that person;

(2) provided in a report or upon a representation by any governmental official or employee, if the particular information of a physical condition is likely to be within the knowledge of that governmental official or employee; or

(3) that the real estate broker, broker-salesperson or salesperson obtained from the seller in a property condition disclosure statement, which form shall comply with regulations promulgated by the director in consultation with the New Jersey Real Estate Commission, provided that the real estate broker, broker-salesperson or salesperson informed the buyer that the seller is the source of the information and that, prior to making that communication to the buyer, the real estate broker, broker-salesperson or salesperson visually inspected the property with reasonable diligence to ascertain the accuracy of the information disclosed by the seller.

Nothing in this section shall be interpreted to affect the obligations of a real estate broker, broker-salesperson or salesperson pursuant to the "New Residential Construction Off-Site Conditions Disclosure Act," P.L.1995, c. 253 (C.46:3C-1 et seq.), or any other law or regulation.

56:8-20. Notice to attorney general of action or defense by injured person; intervention

Any party to an action asserting a claim, counterclaim or defense based upon violation of this act or the act hereby amended or supplemented shall mail a copy of the initial or responsive pleading containing the claim, counterclaim or defense to the Attorney General within 10 days after the filing

of such pleading with the court. Upon application to the court wherein the matter is pending, the Attorney General shall be permitted to intervene or to appear in any status appropriate to the matter.

56:8-21. Short title

This act shall be known and may be cited as the "Unit Price Disclosure Act".

56:8-22. Definitions

As used in this act: "Consumer commodity" means any merchandise, wares, article, product, comestible or commodity of any kind or class produced, distributed or offered for retail sale for consumption by individuals other than at the retail establishment, or for use by individuals for purposes of personal care or in the performance of services rendered within the household, and which is consumed or expended in the course of such use.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Price per measure" means the retail price of a consumer commodity expressed per such unit of weight, standard measure or standard count as the director shall designate by regulation.

"Person" means any natural person, partnership, corporation or other organization engaged in the sale, display or offering for sale of consumer commodities at retail from one or more retail establishments whose combined total floor area exceeds 4,000 square feet or whose combined total annual gross receipts from the sale of consumer commodities in the preceding year exceed $2 million.

56:8-23. Exposure or offer for sale at retail of consumer commodity; mark of price per measure

It shall be an unlawful practice for any person to expose or offer for sale at retail any consumer commodities, except as specifically exempted by the director in accordance with section 4 of this act,[1] unless said consumer commodities shall be plainly marked by a stamp, tag, label or sign at the point of display with the price per measure of such consumer commodity.

[1]Section 56:8-24.

56:8-24. Unit pricing regulations; hearings; exemptions; retail establishments and commodities list

The Director of the Division of Consumer Affairs in the Department of Law and Public Safety may by regulation, and in each instance after public hearing, provide for the manner in which price per measure shall be calculated and displayed, establish and modify a list of commodities exempt from the provisions of this act, and define the classes of retail establishment exempted from the requirements of this act; provided that in no case shall persons with annual gross receipts from the sale of consumer commodities in the preceding tax year of more than $2 million from all retail establishments with a total floor area of more than 4,000 square feet each be exempt from the provisions of this act, and provided further that the director, in promulgating unit-pricing regulations, shall not exempt consumer commodities or retail establishments from the provisions of this act except where compliance therewith would be impractical, unreasonably burdensome or unnecessary for adequate protection of consumers. The Director of the Division of Consumer Affairs shall maintain at all times and make public a clearly defined list of specific commodities exempt from the provisions of this act and of all classes of retail commodities and all classes of retail establishments required to be in compliance with this act and any regulations issued hereunder.

56:8-25. Other regulations

The director, pursuant to the provisions of the Administrative Procedures Act, P.L.1968, c. 410 (C. 52:14B-1 et seq.), shall promulgate such other regulations as shall be necessary in his discretion to effectuate the purposes of this act.

56:8-26. Definitions

As used in this act:

a. “Director” means the director of the Division of Consumer Affairs in the Department of Law and Public Safety.

b. “Division” means the Division of Consumer Affairs in the Department of Law and Public Safety.

c. “Person” means corporations, companies, associations, societies, firms, partnerships and joint stock companies as well as individuals.

d. “Place of entertainment” means any privately or publicly owned and operated entertainment facility within the State of New Jersey

such as a theater, stadium, museum, arena, racetrack or other place where performances, concerts, exhibits, games or contests are held and for which an entry fee is charged.

e. "Ticket" means any piece of paper which indicates that the bearer has paid for entry or other evidence which permits entry to a place of entertainment.

f. "Ticket agent" means any person who is involved in the business of selling or reselling tickets of admission to places of entertainment who charges a premium in excess of the price, plus taxes, printed on the tickets.

56:8-27. Resale of tickets for admission to places of entertainment; place of business; licensing requirement

No person shall engage in or continue in the business of reselling tickets for admission to a place of entertainment without:

a. Owning, operating or maintaining an office, branch office, bureau, agency, or other place of business, not including a post office box, for the purpose of reselling tickets in this State; and

b. Obtaining a license to resell or engage in the business of reselling tickets from the director.

56:8-28. Application for license

a. The division shall prepare and furnish to applicants for licenses application forms and requirements prescribed by the director pertaining to the applications for and the issuances of licenses.

b. Every applicant for a license to engage in the business of reselling tickets shall file his written application with the division on the form furnished by, and consistent with, the regulations prescribed by the director.

c. Each application shall be accompanied by a fee which shall be determined by the director, and a description of the location where the applicant proposes to conduct his business.

56:8-29. Issuance of license; renewal; transfer or assignment; change in location; term of license

a. Upon receipt of the completed application, fee and bond, if any, and when the director is satisfied that the applicant has complied

with all of the requirements of this act, the director shall grant and issue a license to the applicant.

b. The license granted may be renewed for a period of two years upon the payment of a renewal fee which shall be determined by the director.

c. No license shall be transferred or assigned. No change in the location of the premises operated by the licensee shall be made except by permission of the director, and upon payment of a fee established by the director. The license shall run to January 1 in the second year next ensuing the date thereof unless sooner revoked by the director.

56:8-30. Bond

The director shall require the applicant for a license to file with the application a bond in the amount of $10,000.00 with two or more sufficient sureties or an authorized surety company, which bond shall be approved by the director.

Each bond shall be conditioned on the promise that the applicant, his agents or employees will not be guilty of fraud or extortion, will not violate any of the provisions of this act, will comply with the rules and regulations promulgated by the director, and will pay all damages occasioned to any person by reason of misstatement, misrepresentation, fraud or deceit or any unlawful act or omission in connection with the provisions of this act and the business conducted under this act.

56:8-31. Revocation or suspension of license

The director, after notice to the licensee and reasonable opportunity for the licensee to be heard, may revoke his license or may suspend his license for any period which the director deems proper, upon satisfactory proof that the licensee has violated this act, any condition of his license or any rule or regulation of the division promulgated pursuant to this act.

56:8-32. Display of license; copies

Immediately upon the receipt of the license issued pursuant to this act, the licensee shall display and maintain his license in a conspicuous place in his principal office for reselling tickets. He shall request copies of the license from the director for the purpose of displaying a copy of the license in each branch office, bureau or agency and the director may charge a fee for the copies.

56:8-33. Price charged printed on tickets and included in advertisements; maximum premium

Each place of entertainment shall print on the face of each ticket and include in any advertising for any event the price charged therefor. Except for tickets printed prior to the enactment of this act, each ticket shall have endorsed thereon the maximum premium not to exceed 20% of the ticket price or $3.00, whichever is greater, plus lawful taxes, at which the ticket may be resold. No person shall resell, offer to resell, or purchase with the intent to resell a ticket at any premium in excess of the maximum premium as set forth in this act.

56:8-34. Ticket sales in vicinity of place of entertainment

No person shall sell, offer to sell, resell, offer to resell or purchase with the intent to resell any ticket, in or on any street, highway, driveway, sidewalk, parking area, or common area owned by a place of entertainment, or any other area adjacent to or in the vicinity of any place of entertainment as determined by the director; except that a person may resell, in an area which may be designated by the place of entertainment, any ticket or tickets originally purchased for his own personal or family use at no greater than the lawful price permitted under this act.

56:8-35. Special treatment in obtaining tickets; prohibition

Any person who gives or offers anything of value to an employee of a place of entertainment in exchange for, or as an inducement to, special treatment with respect to obtaining tickets, or any employee of a place of entertainment who receives or solicits anything of value in exchange for special treatment with respect to issuing tickets, shall be in violation of this act.

56:8-36. Rules and regulations

The director, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c. 410 (C. 52:14B-1 et seq.), shall promulgate rules and regulations necessary to implement this act.

56:8-37. Violations; penalty

Any person who violates any provision of this act shall be guilty of a crime of the fourth degree.

56:8-38. Nonprofit or political organizations; application of act

The provisions of this act shall not apply to any person who sells, raffles or otherwise disposes of the ticket for a bona fide nonprofit or political organization when the premium proceeds are devoted to the lawful purposes of the organization.

56:8-39. Definitions

As used in this act:

a. "Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

b. "Health club" means an establishment which devotes or will devote 40% or more of its square footage to providing services or facilities for the preservation, maintenance, encouragement or development of physical fitness or physical well-being. The term includes an establishment designated as "reducing salon," "health spa," "spa," "exercise gym," "health studio," "health club," or by other terms of similar import.

c. "Health club services" means those services offered by a health club for the preservation, maintenance, encouragement or development of physical fitness or physical well-being.

d. "Health club services contract" means an agreement under which the buyer of health club services purchases or becomes obligated to purchase health club services.

e. "Operating day" means any calendar day on which patrons may inspect and use the health club's facilities and services during a period of at least eight hours, except holidays and Sundays.

56:8-40. Seller of health club services; registration; duration; reregistration; information required; fees

Each person who sells or offers for sale health club services in this State shall register with the director on forms the director provides. The registration shall be renewed every two years. Upon the sale of the health club facility or a change in the majority ownership of the stock of the corporate owner, the health club facility shall reregister with the director and shall pay the registration fee. The person shall provide the full name and address of each business location where health club services are sold in the State as well as any other information regarding the ownership and operation of each health club that the director deems appropriate. The registra-

tion and renewal fees shall be established or changed by the director and shall be fixed at a level to allow for the proper administration and enforcement of this act, but shall not be fixed at a level that will raise amounts in excess of the amount estimated to be so required.

56:8-41. Maintenance of bond, letter of credit or other security; exemption for three month contracts

a. A person who sells or offers for sale health club services shall, for each health club facility operated in the State, maintain a bond issued by a surety authorized to transact business in this State or maintain an irrevocable letter of credit by a bank or maintain with the director securities, moneys or other security acceptable to the director to fulfill the requirements of this subsection. The principal sum of the bond, letter of credit, or securities, moneys or other security shall be 10% of the health club's gross income for health club services during the club's last fiscal year, except that the principal sum of the bond, letter of credit, or securities, moneys or other security shall not be less than $25,000.00, nor more than $50,000.00. However, the principal sum of the bond,letter of credit, or securities, moneys or other security shall be $50,000.00 for any period of time that a person sells or offers for sale health club services prior to the opening of the health club facility. After the health club facility opens, the bond, letter of credit, or securities, moneys or other security shall be adjusted to the appropriate sum. The bond, letter of credit, or securities, moneys or other security shall be filed or deposited with the director and shall be executed to the State of New Jersey for the use of any person who, after entering into a health club services contract, is damaged or suffers any loss by reason of breach of contract or bankruptcy by the seller. Any person claiming against the bond, letter of credit, or securities, moneys, or other security may maintain an action at law against the health club and the surety, bank or director, as the case may be. The aggregate liability of the surety, bank, or the director to all persons for all breaches of the conditions of the bond, letter of credit, or the securities, moneys or other security held by the director shall not exceed the amount of the bond, letter of credit, or the securities, moneys or other security held by the director.

In the case of a bond, the health club shall file a copy of the bond with the director and a certificate by the surety that the surety will notify the director at least 10 days in advance of the date of any cancellation or material change in the bond.

b. The provisions of subsection a. of this section shall not be applicable to a person who sells or offers for sale health club services in which the buyer of the health club services purchases or becomes obligated to purchase health club services to be rendered over a period no longer than three months and in which the seller of the health club services requires or collects no more than three months' payment in advance. The person who sells or offers for sale health club services under contracts provided for in this subsection shall file with the director, within 30 days following the effective date of this act and no later than January 15 of every even-numbered year, a declaration, executed under penalty of perjury, stating he sells or offers for sale only health club services under contracts which comply with this subsection. Any person who has filed a declaration pursuant to this subsection and who intends to sell or offer for sale health club services under contracts with longer terms or greater payments in advance than those provided in this subsection shall comply with subsection a. of this section.

56:8-42. Written contract; requirements; cancellation by buyer; closure of facility

a. Every contract for health club services shall be in writing. A copy of the written contract shall be given to the buyer at the time the buyer signs the contract.

b. A health club services contract shall specifically set forth in a conspicuous manner on the first page of the contract the buyer's total payment obligation for health club services to be received pursuant to the contract.

c. A health club services contract of a health club facility which maintains a bond, irrevocable letter of credit or securities, moneys or other security pursuant to subsection a. of section 3 of this act[1] shall set forth that a bond, irrevocable letter of credit or securities, moneys or other security is filed or deposited with the Director of the Division of Consumer Affairs to protect buyers of these contracts who are damaged or suffer any loss by reason of breach of contract or bankruptcy by the seller.

d. Services to be rendered to the buyer under the contract shall not obligate the buyer for more than three years from the date the contract is signed by the buyer.

e. A contract for new or increased health club services may be cancelled by the buyer for any reason at any time before midnight of the third operating day after the buyer receives a copy of the contract. In order to cancel a contract the buyer shall notify the health club of cancellation in writing, by registered or certified mail, return receipt requested, or personal delivery, to the address specified in the contract. All moneys paid pursuant to the cancelled contract shall be fully refunded within 30 days of receipt of the notice of cancellation. If the customer has executed any credit or loan agreement through the health club to pay all or part of health club services, the negotiable instrument executed by the buyer shall also be returned within 30 days. The contract shall contain a conspicuous notice printed in at least 10-point bold-faced type as follows:

"NOTICE TO CUSTOMER

You are entitled to a copy of this contract at the time you sign it.

You may cancel this contract at any time before midnight of the third operating day after receiving a copy of this contract. If you choose to cancel this contract, you must either:

1. Send a signed and dated written notice of cancellation by registered or certified mail, return receipt requested; or

2. Personally deliver a signed and dated written notice of cancellation to:

_____

(Name of health club)

_____

(Address of health club)

If you cancel this contract within the three-day period, you are entitled to a full refund of your money. If the third operating day falls on a Sunday or holiday, notice is timely given if it is mailed or delivered as specified in this notice on the next operating day. Refunds must be made within 30 days of receipt of the cancellation notice to the health club.

'Operating day' means any calendar day on which patrons may inspect and use the health club's facilities and services during a period of at least eight hours, except holidays and Sundays."

f. A health club services contract shall provide that it is subject to cancellation by notice sent by registered or certified mail, return

receipt requested, or personally delivered, to the address of the health club specified in the contract upon the buyer's death or permanent disability, if the permanent disability is fully described and confirmed to the health club by a physician. In a cancellation under this subsection, the health club may retain the portion of the total contract price representing the services used plus reimbursement for expenses incurred in an amount not to exceed 10% of the total contract price.

g. A health club services contract shall provide that it is subject to cancellation by notice sent by registered or certified mail, return receipt requested, or personally delivered, to the address of the health club specified in the contract upon the buyer's change of permanent residence to a location more than 25 miles from the health club or an affiliated health club offering the same or similar services and facilities at no additional expense to the buyer. In a cancellation under this subsection, the health club may require proof of the new permanent residence and may retain a prorated share of the total contract price based upon the date the notice was received plus reimbursement for expenses incurred in an amount not to exceed 10% of the total contract price.

h. A health club services contract shall provide that if a health club facility is closed for a period longer than 30 days through no fault of the buyer of the health club services contract, the buyer is entitled to either extend the contract for a period equal to that during which the facility is closed or to receive a prorated refund of the amount paid by the buyer under the contract.

i. A health club services contract shall not obligate the buyer to renew the contract.

j. If a health club facility is not in existence on the date the contract is executed, the health club services contract shall provide that a buyer of a contract may cancel the contract if the facility is not open for business on a date which shall be set forth in the contract and receive a full refund of any deposit or payment on the contract.

[1]Section 56:8-41.

56:8-43. Prohibition against notes cutting off right of action or defense; assignment of contract

a. A health club services contract shall not require the execution of any note or series of notes by the buyer which, if separately nego-

tiated, will cut off as to third parties any right of action or defense which the buyer has against the health club.

b. A right of action or defense arising out of a health club services contract which the buyer has against the health club shall not be cut off by assignment of the contract whether or not the assignee acquires the contract in good faith and for value.

56:8-44. Limit on down payment prior to opening of club

A health club may not charge and accept a down payment exceeding 25% of the total contract price prior to opening the health club facility.

56:8-45. Buyer's reliance on fraudulent or misleading information; contract voidability; buyer's waiver of act provisions void

a. Any health club services contract entered into in reliance upon any fraudulent or substantially and willfully false or misleading information, representation, notice or advertisement of the health club is voidable at the option of the buyer of the contract. Any health club services contract which does not comply with the applicable provisions of this act is voidable at the option of the buyer of the contract.

b. Any waiver by the buyer of the provisions of this act is void.

56:8-46. Unlawful practice; violation of act

It is an unlawful practice and a violation of P.L.1960, c. 39 (C. 56:8-1 et seq.) to violate the provisions of this act.

56:8-47. Non-applicability of act; nonprofit schools; state; other organizations

The provisions of this act shall not apply to any nonprofit public or private school, college or university; the State or any of its political subdivisions; or any bona fide nonprofit, religious, ethnic, or community organization.

56:8-48. Rules and regulations

The director shall adopt pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c. 410 (C. 52:14B-1 et seq.), rules and regulations necessary to effectuate the purposes of this act.

56:8-49. Definitions

As used in this act:

"Dealer" means a person who sells a toy or other article intended for use by children at retail. A dealer who sells at wholesale a toy or article subject to this act shall, with respect to that sale, be considered the distributor of that toy or article.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Distributor" means a person who sells a toy or other article intended for use by children at wholesale.

"Manufacturer" means a person who manufactures or imports a toy or other article intended for use by children for distribution in this State, except that when the toy or other article is distributed or sold under a name other than that of the actual manufacturer or the toy or other article, the term "manufacturer" includes any person under whose name the toy or other article is distributed or sold.

56:8-50. Notification to director of defective or hazardous toys

Any manufacturer, distributor or dealer who, pursuant to any law or any regulation of the U.S. Consumer Product Safety Commission, is required to give public notice with regard to a defect or hazard in any toy or other article intended for use by children of this State shall notify, at the same time and in like manner, the director. The requirements of this section also apply to any such notice that is given voluntarily.

56:8-51. Dealer to display on premises notification of defective and hazardous toys

A dealer who is notified by a manufacturer, a distributor or the U.S. Consumer Product Safety Commission of a defective or hazardous toy or other article intended for use by children shall prominently display that notification for at least 120 days after its receipt in each premises where the toy or article would normally be sold. The notification shall be displayed in an area readily accessible to the public and its content shall be easily readable by a person of normal vision.

56:8-52. Inspection program; publication of summary of defective and hazardous toys; regulations

a. The director shall establish an inspection program to insure that dealers in toys and other articles intended for use by children com-

ply with section 3 of this section.[1] The director also shall periodically publish and disseminate to the public a summary of defective and hazardous toys and other articles intended for use by children.

b. The director shall adopt all regulations necessary to carry out the purposes of this act, in accordance with the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.).

[1] N.J.S.A. § 56:8-51.

56:8-53. Allocation of monies collected as penalties

The monies collected as penalties for violations of this act shall be allocated to the Division of Consumer Affairs in the Department of Law and Public Safety.

56:8-54. Information service as "merchandise"

An information service constitutes a service within the term "merchandise" as defined in P.L.1960, c. 39 (C. 56:8-1 et seq.), and the provisions of that law concerning the advertisement and sale of merchandise shall have the same application to the advertisement and sale of an information service.

56:8-55. Definitions

For the purposes of this act:

"Automatic dialing device" means equipment capable of being programmed to randomly or sequentially dial seven-digit or ten-digit telephone numbers and, upon connection, play back a pre-recorded message.

"Information service" means live or pre-recorded voice or computer-generated communication initiated by use of a telephone number for a fee or charge billed by or on behalf of the information service provider in addition to any charges for the local or long distance transmission or other services associated with the call which are subject to federal regulation or to regulation by the Board of Public Utilities pursuant to Title 48 of the Revised Statutes, but shall not include any regulated announcement services, directory or operator services offered by telephone companies, or services offered on a presubscription basis.

"Information service provider" means a person who advertises or sells an information service.

56:8-56. Advertisement or sale of information service; disclosure required; conditions on sale above $5; construction and conflict with federal requirements

a. It shall be an unlawful practice for a person to advertise or sell an information service unless the following information is clearly and conspicuously disclosed in all advertisements offering the information service:

(1) An accurate description of the service;

(2) The total price of the service, or, where a charge is based in whole or in part on the passage of time; the rate, by minute or other unit of time upon which that charge is based; any other charges being imposed for the service; and the total cost of any information service of predetermined length;

(3) Instruction to minors to obtain parental consent before engaging the information service; and

(4) The legal name and street address of the information service provider.

b. In any case in which the total price of the information service may exceed $5, it shall be an unlawful practice for a person to advertise or sell the information service unless:

(1) The disclosures required by paragraphs (1) and (2) of subsection a. of this section and, in the case of an information service aimed at or likely to be of interest to minors, an additional instruction directing minors to hang up unless the minor has parental permission are clearly and prominently stated at the inception of the telephone call connecting the caller with the information service; and

(2) The caller is clearly notified of and afforded a reasonable opportunity to disconnect the call following the disclosure and prior to incurring any charge for the information service.

c. The preambles required for information services subject to the provisions of subsection b. of this section are intended to be consistent with the preambles required for interstate calls subject to the provisions of 56 Fed.Reg. 56165 (1991) (to be codified at 47 C.F.R. § 64.709). In the event that such regulations are amended or replaced by federal law or subsequent federal regulation, the Director of the Division of Consumer Affairs is authorized to promul-

gate regulations modifying the provisions of this section to avoid conflict with federal requirements.

56:8-57. Certain advertisements or sales prohibited

It shall be an unlawful practice for a person to advertise or sell an information service that involves:

a. Advertisement through use of an automatic dialing device;

b. Access to the information service through use of signals or tones provided directly or indirectly by the information service provider;

c. The dialing of more than one telephone number for a fee;

d. The participation in a contest, raffle, lottery or game of chance which is illegal under New Jersey law;

e. Job or employment opportunities in violation of licensing, registration or other requirements of New Jersey law;

f. Charitable solicitation where the charity and the information service provider are not registered as required by New Jersey law or are not otherwise in compliance with New Jersey law; or

g. Accessing an information service in order to claim or receive information or notice concerning entitlement to a prize, gift, award or other thing of value, other than in connection with a lottery, type of lottery, or lottery game offered by the New Jersey State Lottery Commission.

56:8-58. Rules and regulations; request to block access to information service

The Board of Public Utilities is directed to adopt rules and regulations providing a procedure whereby a subscriber, or the legal representative, guardian, or personal representative of a subscriber may request the telephone company to block access to an information service from the telephone of the subscriber. For purposes of this section, a personal representative is a person designated by the subscriber to serve as the subscriber's representative to the telephone company in the case of billing, emergencies and related matters.

56:8-59. Necessary regulations; registration by providers; fees

Pursuant to the provisions of the "Administrative Procedure Act", P.L.1968, c. 410 (C. 52:14B-1 et seq.), the Director of the Division of Con-

sumer Affairs may adopt regulations as authorized in section 3 of P.L.1991, c. 416 (C. 56:8-56) and as otherwise necessary to effectuate the purposes of this act, require information service providers to register with the Division of Consumer Affairs in the Department of Law and Public Safety and establish fees for this registration at a level which allows for the proper administration and enforcement of this act.

56:8-60. Injunction and monetary restraints authorized

In addition to powers exercised by the Attorney General pursuant to the provisions of section 8 of P.L.1960, c. 39 (C. 56:8-8) or any other law, when it shall appear to the Attorney General that an information service provider is about to engage in, is continuing to engage in, or has engaged in conduct which is in violation of this law, or when it is in the public interest, the Attorney General shall have the authority to seek and obtain in summary action in the Superior Court an injunction prohibiting the information service provider from advertising or selling information services, and may seek and obtain an order directing restraints against receipt and withdrawal of all money due or payable to the information service provider on account of the unlawful activity.

56:8-61. Kosher food consumer protection act; short title

This act shall be known and may be cited as the "Kosher Food Consumer Protection Act."

56:8-62. Definitions

As used in this act:

"Dealer" means any establishment that advertises, represents or holds itself out as selling, preparing or maintaining food as kosher. This shall include, but not be limited to, manufacturers, slaughterhouses, wholesalers, stores, restaurants, hotels, catering facilities, butcher shops, summer camps, bakeries, delicatessens, supermarkets, grocery stores, nursing homes, freezer dealers and food plan companies. These establishments may also sell, prepare or maintain food not represented as kosher.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety or the director's designee.

"Food" means a food, food product, food ingredient, dietary supplement or beverage.

56:8-63. Posting of kosher information

a. Any dealer who prepares, distributes, sells or exposes for sale any food represented to be kosher or kosher for Passover, shall disclose the basis upon which that representation is made by posting the information required by the director, pursuant to regulations adopted pursuant to the authority provided in section 4 of P.L.1960, c. 39 (C. 56:8-4), on a sign of a type and size specified by the director in a conspicuous place upon the premises at which the food is sold or exposed for sale as required by the director.

b. It shall be an unlawful practice for any person to violate the requirements of subsection a. of this section.

56:8-64. Defense to commission of unlawful practice; good faith reliance on representation

Any person subject to the requirements of section 3 of this act [1] shall not be deemed to have committed an unlawful practice if it can be shown by a preponderance of the evidence that the person relied in good faith upon the representations of a slaughterhouse, manufacturer, processor, packer or distributor of any food represented to be kosher or kosher for Passover.

[1]N.J.S.A. § 56:8-63.

56:8-65. Possession of nonconforming kosher food; presumptive evidence of intent to sell

Possession by a dealer of any food not in conformance with its disclosure is presumptive evidence that the person is in possession of that food with the intent to sell.

56:8-66. Compliance with all requirements of director; dealers

Any dealer who prepares, distributes, sells or exposes for sale any food represented to be kosher or kosher for Passover shall comply with all requirements of the director, including, but not limited to, recordkeeping, labeling and filing, pursuant to regulations adopted pursuant to the authority provided in section 4 of P.L.1960, c. 39 (C. 56:8-4).

56:8-67. Definitions

As used in this act:

"As is" means a used motor vehicle sold by a dealer to a consumer without any warranty, either express or implied, and with the consumer being solely responsible for the cost of any repairs to that motor vehicle.

"Consumer" means the purchaser or prospective purchaser, other than for the purpose of resale, of a used motor vehicle normally used for personal, family or household purposes.

"Covered item" means and includes the following components of a used motor vehicle: Engine–all internal lubricated parts, timing chains, gears and cover, timing belt, pulleys and cover, oil pump and gears, water pump, valve covers, oil pan, manifolds, flywheel, harmonic balancer, engine mounts, seals and gaskets, and turbo-charger housing; however, housing, engine block and cylinder heads are covered items only if damaged by the failure of an internal lubricated part. Transmission Automatic/Transfer Case--all internal lubricated parts, torque converter, vacuum modulator, transmission mounts, seals and gaskets. Transmission Manual/Transfer Case--all internal lubricated parts, transmission mounts, seals and gaskets, but excluding a manual clutch, pressure plate, throw-out bearings, clutch master or slave cylinders. Front-Wheel Drive-all internal lubricated parts, axle shafts, constant velocity joints, front hub bearings, seals and gaskets, Rear-Wheel Drive-all internal lubricated parts, propeller shafts, supports and U-joints, axle shafts and bearings, seals and gaskets.

"Dealer" means any person or business which sells or offers for sale a used motor vehicle after selling or offering for sale three or more used motor vehicles in the previous 12-month period.

"Deduction for personal use" means the mileage allowance set by the federal Internal Revenue Service for business usage of a motor vehicle in effect on the date a used motor vehicle is repurchased by a dealer in accordance with section 5 of this act,[1] multiplied by the total number of miles a used motor vehicle is driven by a consumer from the date of purchase of that vehicle until the time of its repurchase.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Excessive wear and tear" means wear or damage to a used motor vehicle beyond that expected to be incurred in normal circumstances.

"Material defect" means a malfunction of a used motor vehicle, subject to a warranty, which substantially impairs its use, value or safety.

"Repair insurance" means a contract in writing to refund, repair, replace, maintain or take other action with respect to a used motor vehicle for

any period of time or any specified mileage and provided at an extra charge beyond the price of the used motor vehicle.

"Service contract" means a contract in writing to refund, repair, replace, maintain or take other action with respect to a used motor vehicle for any period of time or any specific mileage or provided at an extra charge beyond the price of the used motor vehicle.

"Used motor vehicle" means a passenger motor vehicle, excluding motorcycles, motor homes and off-road vehicles, title to, or possession of which has been transferred from the person who first acquired it from the manufacturer or dealer, and so used as to become what is commonly known as "secondhand," within the ordinary meaning thereof but does not mean a passenger motor vehicle, subject to a motor vehicle lease agreement which was in effect for more than 90 days, which is sold by the lessor to the lessee, or to a family member or employee of the lessee upon the termination of the lease agreement.

"Warranty" means any undertaking, in writing and in connection with the sale by a dealer of a used motor vehicle, to refund, repair, replace, maintain or take other action with respect to the used motor vehicle, and which is provided at no extra charge beyond the price of the used motor vehicle.

[1]N.J.S.A. § 56:8-71.

56:8-67.1. Sale of leased vehicle to certain individuals warranted

A lessor who is a dealer and who sells or offers for sale a used passenger motor vehicle, subject to a motor vehicle lease agreement which was in effect for more than 90 days, to a consumer who is not the lessee, or a family member or employee of the lessee upon the termination of the lease agreement, shall be subject to the provisions of P.L.1995, c.373 (C. 56:8-67 et seq.) including the bonding requirement of section 11 of that act (C. 56:18-77).

56:8-68. Unlawful practices

It shall be an unlawful practice for a dealer:

a. To misrepresent the mechanical condition of a used motor vehicle;

b. To fail to disclose, prior to sale, any material defect in the mechanical condition of the used motor vehicle which is known to the dealer;

c. To represent that a used motor vehicle, or any component thereof, is free from material defects in mechanical condition at the time of sale, unless the dealer has a reasonable basis for this representation at the time it is made;

d. To fail to disclose, prior to sale, the existence and terms of any written warranty, service contract or repair insurance currently in effect on a used motor vehicle provided by a person other than the dealer, and subject to transfer to a consumer, if known to the dealer;

e. To misrepresent the terms of any written warranty, service contract or repair insurance currently in effect on a used motor vehicle provided by a person other than the dealer, and subject to transfer to a consumer;

f. To fail to disclose, prior to sale, the existence and terms of any written warranty, service contract or repair insurance offered by the dealer in connection with the sale of a used motor vehicle;

g. To misrepresent the terms of any warranty, service contract or repair insurance offered by the dealer in connection with the sale of a used motor vehicle;

h. To represent, prior to sale, that a used motor vehicle is sold with a warranty, service contract or repair insurance when the vehicle is sold without any warranty, service contract or repair insurance;

i. To fail to disclose, prior to sale, that a used motor vehicle is sold without any warranty, service contract, or repair insurance; and

j. To fail to provide a clear written explanation, prior to sale, of what is meant by the term "as is," if the used motor vehicle is sold "as is."

56:8-69. Written warranty; minimum durations

It shall be an unlawful practice for a dealer to sell a used motor vehicle to a consumer without giving the consumer a written warranty which shall at least have the following minimum durations:

a. If the used motor vehicle has 24,000 miles or less, the warranty shall be, at a minimum, 90 days or 3,000 miles, whichever comes first;

b. If the used motor vehicle has more than 24,000 miles but less than 60,000 miles, the warranty shall be, at a minimum, 60 days or 2,000 miles, whichever comes first; or

c. If the used motor vehicle has 60,000 miles or more, the warranty shall be, at a minimum, 30 days or 1,000 miles, whichever comes first, except that a consumer may waive his right to a warranty as provided under section 7 of this act.[1]

[1]N.J.S.A. § 56:8-73.

56:8-70. Dealer required to correct failure or malfunction of covered items; excluded repairs

The written warranty shall require the dealer, upon failure or malfunction of a covered item during the term of the warranty, to correct the malfunction or defect, provided the used motor vehicle is delivered to the dealer, at his regular place of business, and subject to a deductible amount of $50 to be paid by the consumer for each repair of a covered item. This written warranty shall exclude repairs covered by any manufacturer's warranty, or recall program, as well as repairs of a covered item required because of collision, abuse, or the consumer's failure to properly maintain such used motor vehicle in accordance with the manufacturer's recommended maintenance schedule, or from damage of a covered item caused as a result of any commercial use of the used motor vehicle, or operation of such vehicle without proper lubrication or coolant, or as a result of any misuse, negligence or alteration of such vehicle by someone other than the dealer.

56:8-71. Failure to correct material defect; refund of purchase price; affirmative defenses

a. If, within the periods specified in section 3 of this act,[1] the dealer or his agent fails to correct a material defect of the used motor vehicle, after a reasonable opportunity to repair the used motor vehicle, the dealer shall repurchase the used motor vehicle and refund to the consumer the full purchase price, excluding all sales taxes, title and registration fees, or any similar governmental charges, and less a reasonable allowance for excessive wear and tear and less a deduction for personal use of such vehicle. Refunds shall be made to the consumer and lienholder, if any, as their interests appear on the records of ownership kept by the Director of the Division of Motor Vehicles.

b. It shall be an affirmative defense to any claim under this section that:

(1) The alleged material defect does not substantially impair the use, value or safety of the used motor vehicle; or

(2) The material defect is the result of abuse, neglect or unauthorized modification or alteration of the used motor vehicle by anyone other than the dealer or his agent.

c. It shall be presumed that a dealer has a reasonable opportunity to correct or repair a material defect in a used motor vehicle, if:

(1) The same material defect has been subject to repair three or more times by the dealer or his agent within the warranty period, but the material defect continues to exist; or

(2) The used motor vehicle is out of service by reason of waiting for the dealer to begin or complete repair of the material defect for a cumulative total of 20 or more days during the warranty period.

[1]N.J.S.A. § 56:8-69.

56:8-72. Term of written warranty extended by time spent waiting for dealer to begin or complete repairs

The term of any written warranty offered by a dealer in connection with the sale of a used motor vehicle shall be extended by any time period during which the used motor vehicle is waiting for the dealer or his agent to begin or complete repairs of a material defect of the used motor vehicle.

56:8-73. Election to waive warranty on used vehicle with over 60,000 miles; form and content of waiver

Notwithstanding any provision of this act to the contrary, a consumer, as a result of a price negotiation for the purchase of a used motor vehicle with over 60,000 miles, may elect to waive the dealer's obligation to provide a warranty on the used motor vehicle. The waiver shall be in writing and separately stated in the agreement of retail sale or in an attachment thereto and separately signed by the consumer. The waiver shall state the dealer's obligation to provide a warranty on used motor vehicles offered for sale, as set forth in sections 3 and 4 of this act.[1] The waiver shall indicate that the consumer, having negotiated the purchase price of the used motor vehicle and obtained a price adjustment, is electing to waive the dealer's obligation to provide a warranty on the used motor vehicle and is buying the used motor vehicle "as is."

[1]N.J.S.A. §§ 56:8-69 and 56:8-70.

56:8-74. Dealer deemed to have given warranty in absence of written waiver

If a dealer fails to give a written warranty required by this act, the dealer nevertheless shall be deemed to have given the warranty as a matter of law, unless a waiver has been signed by the consumer in accordance with section 7 of this act.[1]

[1]N.J.S.A. § 56:8-73.

56:8-75. Consumer rights and remedies not affected

Nothing in this act shall in any way limit the rights or remedies which are otherwise available to a consumer under any other law.

56:8-76. Vehicles not covered by warranty

The provisions of sections 3, 4, and 5[1] shall not apply to: Any used motor vehicle sold for less than $3,000; any used motor vehicle over 7 or more model years old; any used motor vehicle which has been declared a total loss by an insurance company and with respect to which the consumer, at or prior to the time of sale, has been advised in writing that the used motor vehicle has been declared a total loss by an insurance company; or, any used motor vehicle with more than 100,000 miles.

[1]N.J.S.A. §§ 56:8-69, 56:8-70 and 56:8-71.

56:8-77. Bond requirements

To assure compliance with the requirements of this act, a dealer shall provide a bond in favor of the State of New Jersey in the amount of $10,000, executed by a surety company authorized to transact business in the State of New Jersey by the Department of Insurance and to be conditioned on the faithful performance of the provisions of this act. This bond shall be for the term of 12 months and shall be renewed at each expiration for a similar period. The Director of the Division of Motor Vehicles shall not issue a dealer's license and shall not renew a license of any dealer who has not furnished proof of the existence of the bond required by this act.

56:8-78. Rules and regulations

The Director shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C. 52:14B-1 et seq.) to effectuate the purposes of this act.

56:8-79. Consumer awareness program

The director shall implement a consumer awareness program which shall advise consumers of the requirements, protections and benefits provided by this act, within 120 days following enactment of this act.

56:8-80. Administrative fee

The director may establish an administrative fee, to be paid by the consumer, in order to implement the provisions of this act, which fee shall be fixed at a level not to exceed the cost for the administration and enforcement of this act.

56:8-81. Short title; Industrial Hygienist Truth in Advertising Act

This act shall be known and may be cited as the "Industrial Hygienist Truth in Advertising Act."

56:8-82. Legislative findings and declaration

The Legislature finds and declares that it is necessary to provide assurance to the public that individuals who represent themselves as being involved in the profession of industrial hygiene have met certain qualifications.

56:8-83. Definitions

As used in this act:

"Accredited college or university" means a college or university that is accredited by one of the following six regional accrediting agencies: Middle States Association of Colleges and Schools, New England Association of Schools and Colleges, North Central Association of Colleges and Schools, Northwest Association of Schools and Colleges, Southern Association of Colleges and Schools, or Western Association of Schools and Colleges. A college or university that is located outside of the United States will be considered on the basis of its accreditation status in the education system that has jurisdiction.

"Certified industrial hygienist" or "CIH" means a person who has met the education, experience, and examination requirements of an industrial hygiene certification organization and whose certification has not lapsed or been revoked.

"Certified industrial hygienist in training" or "CIHIT" is a person who has received the designation industrial hygienist in training from an indus-

trial hygiene certification organization and whose certification has not lapsed or been revoked.

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety.

"Industrial hygiene" means the science and practice devoted to the anticipation, recognition, evaluation, and control of those factors and stresses arising in or from the workplace or the environment that may cause sickness, impaired health and well-being, or significant discomfort among workers or members of the community.

"Industrial hygiene certification organization" means a professional organization of certified industrial hygienists which has been in existence for at least five years and which has been established to improve the practice and educational standards of the profession of industrial hygiene by certifying individuals who meet its education, experience and examination requirements. The organization shall have its certifying examinations evaluated by a national testing service and shall maintain criteria that are at least the equivalent of the American Board of Industrial Hygiene.

"Industrial hygienist" means a person who has an industrial hygienist education as defined in this section.

"Industrial hygienist education" means a baccalaureate or graduate degree from an accredited college or university in industrial hygiene, biology, chemistry, engineering, physics, or a closely related physical or biological science; or a baccalaureate or graduate degree from an accredited college or university that contains at least 60 semester credit hours in undergraduate or graduate level courses in science, mathematics, engineering and technology, with at least 15 of those hours in courses offered at the upper (junior, senior or graduate) level. A degree that is heavily comprised of only one of those subject areas in the absence of others, may be judged unacceptable. An unacceptable baccalaureate degree may be remedied by additional science coursework from an accredited college or university or by completion of a related graduate degree from an accredited college or university.

56:8-84. Unlawful practices

a. It shall be an unlawful practice for any person to advertise or hold himself out as a certified industrial hygienist in training or "CIHIT", or as a certified industrial hygienist or "CIH", unless that person is certified by an industrial hygiene certification organization.

b. It shall be an unlawful practice for any person who does not have an industrial hygienist education to advertise or hold himself out as an industrial hygienist.

56:8-85. Persons not covered

This act shall not apply to:

a. A person employed as an apprentice under the supervision of an industrial hygienist, certified industrial hygienist in training or certified industrial hygienist; or

b. A student studying industrial hygiene engaging in supervised activities related to industrial hygiene.

56:8-86. Definitions relating to changes in telecommunications service providers

As used is this act:

"Board" means the Board of Public Utilities.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Telecommunications service provider" means any individual, firm, joint venture, partnership, corporation, association, public utility, cooperative association, joint stock association and includes any trustee, receiver, assignee, representative, provider of intrastate, interLATA, intraLATA or local exchange telecommunications service to an end-use customer.

"Service for which there are multiple providers" means a service for which customers have the ability to subscribe or select from more than one telecommunications service provider.

56:8-87. Changes in telecommunications service providers; authorization and confirmation procedure compliance required

No telecommunications service provider or any person, firm or corporation acting as an agent or representative on behalf of a telecommunications service provider, shall, on behalf of a customer, make any change or direct a different telecommunications service provider to make any change in a provider of a telecommunications service for which there are multiple providers, unless the provider, agent or representative complies with authorization and confirmation procedures established by the board and by federal law and rules. In construing and enforcing the provisions of this

section, the act of any person, firm or corporation acting as agent or representative acting on behalf of a telecommunications service provider within the parameters of the working agreement set forth by the telecommunications service provider shall be deemed to be the act of that telecommunications service provider.

56:8-88. Time period for compliance with customer requested changes

No telecommunications service provider or any person, firm or corporation acting as an agent or representative on behalf of a telecommunications service provider, shall, on behalf of a customer, fail to make any change in a provider of a telecommunications service for which there are multiple providers when such change order has been received in a manner that complies with federal and State rules and regulations. All such change orders shall be properly processed to assure that the order is completed and service will be provided by the new telecommunications service provider of choice within 30 business days of receipt of the compliant change order, which may be extended for good cause by the board for an additional 30-day period, unless otherwise agreed to by the customer, or as specified by rule or order of the board, or as agreed to by the telecommunications service providers involved in the change, or by federal law or rule.

56:8-89. Adoption of rules and regulations; changes in telecommunication service providers

The board, in consultation with the director, shall adopt rules and regulations relating to changes in telecommunications service providers that are consistent with federal law and which, among other requirements, shall establish procedures for a customer to confirm a change in a telecommunications service provider made by another telecommunications service provider on behalf of the customer, establish procedures by which the new telecommunications service provider shall notify a customer of a change in a telecommunications service provider, and set forth methods for enforcing those rules and regulations.

56:8-90. Notification to customer of completion of authorized change

When an authorized change in a telecommunications service provider is made, the new telecommunications service provider shall be responsible for notifying the customer of the change within 30 days in the manner determined by the board pursuant to section 4 of this act. In addition, any

bill for intrastate, interLATA, intraLATA or local exchange service shall contain the name and telephone number of each telecommunications service provider for which billing is provided, and any other information deemed applicable by the telecommunications service provider.

56:8-91. Willfull or intentional violations; penalties

A telecommunications service provider who is determined by the board, after notice and opportunity to be heard, to have willfully or intentionally violated any provision of this act or any rule, regulation or order adopted pursuant hereto or to have violated any federal law and rules relating to changes in telecommunications service providers applicable to intrastate service shall be liable to a civil penalty not to exceed $7,500 for a first violation and not to exceed $15,000 for each subsequent violation associated with a specific access line within the State. All moneys recovered from an administrative penalty imposed pursuant to this section shall be paid into the State Treasury to the credit of the General Fund.

56:8-92. Short title

This act shall be known and may be cited as the "Pet Purchase Protection Act."

56:8-93. Definitions

As used in sections 1 through 5 of this act:

"Animal" means a cat or dog;

"Consumer" means a person purchasing a cat or dog;

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety;

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety;

"Pet dealer" means any person engaged in the ordinary course of business in the sale of cats or dogs to the public for profit or any person who sells or offers for sale more than five cats or dogs in one year;

"Pet shop" means a pet shop as defined in section 1 of P.L.1941, c. 151 (C.4:19-15.1);

"Quarantine" means to hold in segregation from the general population any cat or dog because of the presence or suspected presence of a contagious or infectious disease;

"Unfit for purchase" means any disease, deformity, injury, physical condition, illness or defect which is congenital or hereditary and severely affects the health of the animal, or which was manifest, capable of diagnosis or likely contracted on or before the sale and delivery of the animal to the consumer. The death of an animal within 14 days of its delivery to the consumer, except by death by accident or as a result of injuries sustained during that period, shall mean the animal was unfit for purchase; and

"Veterinarian" means a veterinarian licensed to practice in the State of New Jersey.

56:8-94. Construction of act

No provision of this act shall be construed in any way to alter, diminish, replace, or revoke the requirements for pet dealers that are not pet shops or the rights of a consumer purchasing an animal from a pet dealer that is not a pet shop, as may be provided elsewhere in law or any rule or regulation adopted pursuant thereto. Except as provided in section 4 and section 5 of P.L.1999, c. 336 (C.56:8-95 et seq.), any provision of law pertaining to pet shops, or rule or regulation adopted pursuant thereto, shall continue to apply to pet shops. No provision of this act shall be construed in any way to alter, diminish, replace, or revoke any recourse or remedy that is otherwise available to a consumer purchasing a cat or a dog from a pet shop under any other law.

56:8-95. Deceptive practice; minimum standards

a. Notwithstanding the provisions of any rule or regulation adopted pursuant to Title 56 of the Revised Statutes as such provisions are applied to pet shops, and without limiting the prosecution of any other practices which may be unlawful pursuant to Title 56 of the Revised Statutes, it shall be a deceptive practice for any owner or operator of a pet shop, or employee thereof, to sell animals within the State without complying with the provisions and requirements of this section.

b. Within five days prior to the offering for sale of any animal, the owner or operator of a pet shop, or employee thereof, shall have the animal examined by a veterinarian licensed to practice in the State. The name and address of the examining veterinarian, together with the findings made and treatment, if any, ordered as a result of the examination, shall be noted on the animal history and health certificate for each animal as required by regulations adopted pursuant to Title 56 of the Revised Statutes. If fourteen days have

passed since the last veterinarian examination of the animal, the owner or operator of the pet shop, or employee thereof, shall have the animal reexamined by a veterinarian licensed to practice in the State as provided for in subsection g. of this section, except as otherwise provided in that subsection.

c. Each cage in a pet shop shall have a label identifying the sex and breed of each animal kept in the cage, the date and place of birth of each animal, and the name and address of the veterinarian attending to the animal and the date of the initial examination of the animal.

d. The owner or operator of a pet shop, or employee thereof, shall quarantine any animal diagnosed as suffering from a contagious or infectious disease, illness, or condition and may not sell such an animal until such time as a veterinarian licensed to practice in the State treats the animal and determines that such animal is free of clinical signs of infectious disease or that the animal is fit for sale. All animals required to be quarantined pursuant to this subsection shall be placed in a quarantine area, separated from the general animal population of the pet shop.

e. The owner or operator of a pet shop, or designated employee thereof, may inoculate and vaccinate animals prior to purchase only upon the order of a veterinarian. No owner or operator of a pet shop, or employee thereof, may represent, directly or indirectly, that the owner or operator of the pet shop, or any employee thereof, other than a veterinarian, is qualified to, directly or indirectly, diagnose, prognose, treat, or administer for, prescribe any treatment for, operate concerning, manipulate or apply any apparatus or appliance for addressing, any disease, pain, deformity, defect, injury, wound or physical condition of any animal after purchase of the animal, for the prevention of, or to test for, the presence of any disease, pain, deformity, defect, injury, wound or physical condition in an animal after its purchase. These prohibitions include, but are not limited to, the giving of inoculations or vaccinations after purchase, the diagnosing, prescribing and dispensing of medication to animals and the prescribing of any diet or dietary supplement as treatment for any disease, pain, deformity, defect, injury, wound or physical condition.

f. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety shall provide each owner or opera-

tor of a pet shop with notification forms, to be signed by the owner or operator of the pet shop, or employee thereof, and the consumer at the time of purchase of an animal. The notification form shall provide the following:

(1) The full text of the rights and responsibilities provided for in subsection h. of this section;

(2) The full text and description of the recourse to which the consumer is entitled pursuant to subsection i. of this section;

(3) The statement that it is the responsibility of the consumer to obtain such certification within the required amount of time provided by subsection h. of this section;

(4) The full text of the rights and responsibilities of the owner or operator of the pet shop, and the employees thereof, and the consumer provided in subsection l. of this section; and

(5) The notification, reporting and enforcement provisions provided in section 5 of P.L.1999, c. 334 (C.56:8-96), including the name and address of the local health authority with jurisdiction over the pet shop.

The owner or operator of the pet shop, or an employee thereof, shall obtain the signature of the consumer on the form and shall also sign the form at the time of purchase of an animal, and shall provide the consumer with a signed copy of the form and retain a copy of the form on the pet shop premises. Copies of all such notices shall be readily available for inspection by an authorized representative of the Division of Consumer Affairs, upon request. No pet shop owner or operator, or employee thereof, may construe or use the signed notification form required pursuant to this subsection as an abdication of the right to recourse provided for in subsection i., or as a selection of recourse pursuant to subsection k. of this section.

g. The owner or operator of a pet shop, or an employee thereof, shall have any animal that has been examined more than 14 days prior to the date of purchase, reexamined by a veterinarian for the purpose of disclosing its condition, within 72 hours of the delivery of the animal to the consumer, unless the consumer has waived the right to the reexamination in writing. The owner or operator of a pet shop, or an employee thereof, shall provide a copy of the written waiver to the consumer prior to the signing of any contact or

agreement to purchase the animal and the written waiver shall be in the form established by the director by regulation.

h. If at any time within 14 days after the sale and delivery of an animal to a consumer, the animal becomes sick or dies and a veterinarian certifies, within the 14 days after the date of purchase of the animal by the consumer, that the animal is unfit for purchase due to a non-congenital cause or condition, or that the animal died from causes other than an accident, the consumer is entitled to the recourse described in subsection i. of this section.

If the animal becomes sick or dies within 180 days after the date of purchase and a veterinarian certifies, within the 180 days after the date of purchase of the animal by the consumer, that the animal is unfit for sale due to a congenital or hereditary cause or condition, or a sickness brought on by a congenital or hereditary cause or condition, or died from such a cause or condition or sickness, the consumer shall be entitled to the recourse provided in subsection i. of this section.

It shall be the responsibility of the consumer to obtain such certification within the required amount of time provided by this subsection, unless the owner or operator of the pet shop, or the employee thereof selling the animal to the consumer, fails to provide the notice required pursuant to subsection f. of this section. If the owner or operator of the pet shop, or the employee thereof, fails to provide the required notice, the consumer shall be entitled to the recourse provided for in subsection i. of this section.

i. Only the consumer shall have the sole authority to determine the recourse the consumer wishes to select and accept, provided that the recourse selected is one of the following:

(1) The right to return the animal and receive a full refund of the purchase price, including sales tax, plus the reimbursement of the veterinary fees, including the cost of the veterinarian certification, incurred prior to the receipt by the consumer of the veterinarian certification;

(2) The right to retain the animal and to receive reimbursement for veterinary fees incurred prior to the consumer's receipt of the veterinarian certification, plus the future cost of veterinary fees to be incurred in curing or attempting to cure the animal, including the cost of the veterinarian certification;

(3) The right to return the animal and to receive in exchange an animal of the consumer's choice, of equivalent value, plus

reimbursement of veterinary fees, including the cost of the veterinarian certification, incurred prior to the consumer's receipt of the veterinarian certification; or

(4) In the event of the death of the animal from causes other than an accident, the right to a full refund of the purchase price of the animal, including sales tax, or another animal of the consumer's choice of equivalent value, plus reimbursement of veterinary fees, including the cost of the veterinarian certification, incurred prior to the death of the animal.

The consumer shall be entitled to be reimbursed an amount for veterinary fees up to and including two times the purchase price, including sales tax, of the sick or dead animal. No reimbursement of veterinary fees shall exceed two times the purchase price, including sales tax, of the sick or dead animal.

j. The veterinarian shall provide to the consumer in writing and within the seven days after the consumer consults with the veterinarian any certification that is appropriate pursuant to this section upon the determination that such certification is appropriate. The certification shall include:

(1) The name of the owner;

(2) The date or dates of examination;

(3) The breed, color, sex and age of the animal;

(4) A statement of the findings of the veterinarian;

(5) A statement that the veterinarian certifies the animal to be "unfit for purchase";

(6) An itemized statement of veterinary fees incurred as of the date of certification;

(7) If the animal may be curable, an estimate of the possible cost to cure, or attempt to cure, the animal;

(8) If the animal has died, a statement establishing the probable cause of death; and

(9) The name and address of the certifying veterinarian and the date of the certification.

k. Upon the presentation of the veterinarian certification required in subsection j. of this section to the pet shop, the consumer shall

select the recourse to be provided and the owner or operator of the pet shop, or the employee thereof, shall confirm the selection of recourse in writing. The confirmation of the selection shall be signed by the owner or operator of the pet shop, or an employee thereof, and the consumer and a copy of the signed confirmation shall be given to the consumer and retained by the owner or operator of the pet shop, or employee thereof, on the pet shop premises. The confirmation of the selection shall be in the form established by the director by regulation.

l. The owner or operator of the pet shop, or an employee thereof, shall comply with the selection of recourse by the consumer no later than 10 days after the receipt of the veterinarian certification and the signed confirmation of selection of recourse form. In the event the owner or operator of the pet shop, or an employee thereof, wishes to contest the selection of recourse of the consumer, the owner or operator of the pet shop, or an employee thereof, shall notify the consumer and the director in writing within the five days after the receipt of the veterinarian certification and the signed confirmation of selection of recourse form. After notification to the consumer and the director of the division, the owner or operator of the pet shop, or an employee thereof, may require the consumer to produce the animal for examination by a veterinarian chosen by the owner or operator of the pet shop, or employee thereof, at a mutually convenient time and place, except if the animal has died and was required to be cremated for public health reasons. The director shall set, upon receipt of such notice of contest on the part of the owner or operator of the pet shop, or an employee thereof, a hearing date and hold a hearing, pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.) and the Uniform Administrative Procedure Rules adopted pursuant thereto, to determine whether the recourse selected by the consumer should be allowed. The consumer and the owner or operator of the pet shop, or employee thereof, shall be entitled to any appeal of the decision resulting from the hearing as may be provided for under the law, or any rule or regulation adopted pursuant thereto, but upon the exhaustion of such remedies and recourse, the consumer and the owner or operator of the pet shop shall comply with the final decision rendered.

m. Any owner or operator of a pet shop, or employee thereof, shall be guilty of a deceptive practice if the owner or operator, or employee

thereof, secures or attempts to secure a waiver of any of the provisions of this section except as specifically authorized under subsection g. of this section.

n. The owner of a pet shop shall be responsible and liable for any recourse or reimbursement due to a consumer because of violations of any provisions of this section by the owner or operator of the pet shop, or any employee thereof, or because of any document signed pursuant to this section by the owner or operator of the pet shop, or any employee thereof.

56:8-96. Recourse for consumers in the event of sickness or death of animal

a. Any consumer who purchases from a pet shop an animal that becomes sick or dies after the date of purchase may take the sick or dead animal to a veterinarian within the period of time required pursuant to the notification form provided upon the date of purchase, receive certification from the veterinarian of the health and condition of the animal, and pursue the recourse provided for under the circumstances indicated by the veterinarian certification, as required and provided for pursuant to section 4 of P.L.1999, c. 336 (C.56:8-95).

b. Upon receipt of the certification from the veterinarian, the consumer may report the sickness or death of the animal and the pet shop where the animal was purchased to the local health authority with jurisdiction over the municipality in which the pet shop where the animal was purchased is located, and to the Director of the Division of Consumer Affairs in the Department of Law and Public Safety. The consumer shall provide a copy of the veterinarian certificate with any such report. The director shall forward to the appropriate local health authority a copy of any such report the division receives. The local health authority shall record and retain the records of any such report and documentation submitted by a consumer.

c. By the May 1 immediately following the effective date of this act, and annually thereafter, the local health authority with jurisdiction over pet shops shall review any files it has concerning reports filed pursuant to subsection b. of this section and shall recommend to the municipality in which the pet shop is located the revocation of the license of any pet shop with reports filed as follows:

(1) 15% of the total number of animals sold in a year by the pet shop were certified by a veterinarian to be unfit for purchase due to congenital or hereditary cause or condition, or a sickness brought on by a congenital or hereditary cause or condition;

(2) 25% of the total number of animals sold in a year by the pet shop were certified by a veterinarian to be unfit for purchase due to a non-congenital cause or condition;

(3) 10% of the total number of animals sold in a year by the pet shop died and were certified by a veterinarian to have died from a non-congenital cause or condition; or

(4) 5% of the total number of animals sold in a year by the pet shop died and were certified by a veterinarian to have died from a congenital or hereditary cause or condition, or a sickness brought on by a congenital or hereditary cause or condition.

d. By the May 1 immediately following the effective date of this act, and annually thereafter, the local health authority with jurisdiction over pet shops shall review any files it has concerning reports filed pursuant to subsection b. of this section and shall recommend to the municipality in which the pet shop is located a 90-day suspension of the license of any pet shop with reports filed as follows:

(1) 10% of the total number of animals sold in a year by the pet shop were certified by a veterinarian to be unfit for purchase due to congenital or hereditary cause or condition, or a sickness brought on by a congenital or hereditary cause or condition;

(2) 15% of the total number of animals sold in a year by the pet shop were certified by a veterinarian to be unfit for purchase due to a non-congenital cause or condition;

(3) 5% of the total number of animals sold in a year by the pet shop died and were certified by a veterinarian to have died from a non-congenital cause or condition; or

(4) 3% of the total number of animals sold in a year by the pet shop died and were certified by a veterinarian to have died from a congenital or hereditary cause or condition, or a sickness brought on by a congenital or hereditary cause or condition.

e. Pursuant to the authority and requirements provided in section 8 of P.L.1941, c. 151 (C.4:19-15.8), the owner of the pet shop shall be afforded a hearing and, upon the recommendation by the local health authority pursuant to subsection c. or d. of this section, the local health authority, in consultation with the State Department of Health and Senior Services, shall set a date for the hearing to be held by the local health authority or the State Department of Health and Senior Services and shall notify the pet shop involved. The municipality may suspend or revoke the license, or part thereof, that authorizes the pet shop to sell cats or dogs after such hearing has been held and as provided in section 8 of P.L.1941, c.151 (C.4:19-15.8). At the hearing, the local health authority or the State Department of Health and Senior Services, whichever entity is holding the hearing, shall receive testimony from the pet shop and shall determine if the pet shop: (1) failed to maintain proper hygiene and exercise reasonable care in safeguarding the health of animals in its custody, or (2) sold a substantial number of animals that the pet shop knew, or reasonably should have known, to be unfit for purchase.

f. No provision of subsection c. shall be construed to restrict the local health authority or the State Department of Health and Senior Services from holding a hearing concerning any pet shop in the State irrespective of the criteria for recommendation of license suspension or revocation named in subsection c. or d., or from recommending to a municipality the suspension or revocation of the license of a pet shop within its jurisdiction for other violations under other sections of law, or rules and regulations adopted pursuant thereto.

g. No action taken by the local health authority or municipality pursuant to this section or section 8 of P.L.1941, c. 151 (C.4:19-15.8) shall be construed to limit or replace any action, hearing or review of complaints concerning the pet shop by the Division of Consumer Affairs in the Department of Law and Public Safety to enforce consumer fraud laws or other protections to which the consumer is entitled.

h. The requirements of this section shall be posted in a prominent place in each pet shop in the State along with the name, address and telephone number of the local health authority that has jurisdiction over the pet shop, and this information shall be provided in writing at the time of purchase to each consumer and to each li-

censed veterinarian contracted for services by the pet shop upon contracting the veterinarian.

i. The Director of the Division of Consumer Affairs may investigate and pursue enforcement against any pet shop reported by a consumer pursuant to subsection b. of this section.

56:8-97. Rules and regulations

The Director of the Division of Consumer Affairs in the Department of Law and Public Safety may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.), any rules or regulations as the director deems necessary for the implementation of this act.

An Act preventing consumer fraud in the preparation, distribution and sale of food represented as halal and supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

56:8-98 Short title.

Sections 1 through 6 of this act shall be known and may be cited as the "Halal Food Consumer Protection Act."

56:8-99 Definitions relative to food represented as halal.

As used in this act:

"Dealer" means any establishment that advertises, represents or holds itself out as selling, preparing or maintaining food as halal, including, but not limited to, manufacturers, slaughterhouses, wholesalers, stores, restaurants, hotels, catering facilities, butcher shops, summer camps, bakeries, delicatessens, supermarkets, grocery stores, nursing homes, freezer dealers and food plan companies. These establishments may also sell, prepare or maintain food not represented as halal.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety or the director's designee.

"Food" means a food, food product, food ingredient, dietary supplement or beverage.

56:8-100 Posting of information by dealer representing food to be halal.

a. Any dealer who prepares, distributes, sells or exposes for sale any food represented to be halal, shall disclose the basis upon which that representation is made by posting the information required by

the director, pursuant to regulations adopted pursuant to the authority provided in section 4 of P.L.1960, c.39 (C.56:8-4), on a sign of a type and size specified by the director in a conspicuous place upon the premises at which the food is sold or exposed for sale as required by the director.

b. It shall be an unlawful practice for any person to violate the requirements of subsection a. of this section.

56:8-101 Reliance on representation, good faith, defense.

Any person subject to the requirements of section 3 of this act shall not have committed an unlawful practice if it can be shown by a preponderance of the evidence that the person relied in good faith upon the representations of a slaughterhouse, manufacturer, processor, packer or distributor of any food represented to be halal.

56:8-102 Possession of food implies intent to sell.

Possession by a dealer of any food not in conformance with the disclosure required by section 3 of this act with respect to that food is presumptive evidence that the person is in possession of that food with the intent to sell.

56:8-103 Compliance required by dealer in regard to food represented as halal.

Any dealer who prepares, distributes, sells or exposes for sale any food represented to be halal shall comply with all requirements of the director, including, but not limited to, recordkeeping, labeling and filing, pursuant to regulations adopted pursuant to the authority provided in section 4 of P.L.1960, c.39 (C.56:8-4).

56:8-104 Definitions relative to certain loans for senior citizens.

For the purposes of this act:

"Home solicitation" means any transaction made at the consumer's primary residence, except those transactions initiated by the consumer. A consumer response to an advertisement is not a home solicitation.

"Senior citizen" means an individual who is 60 years of age or older.

"Transaction" means a sale as defined in subsection e. of section 1 of P.L.1960, c.39 (C.56:8-1).

56:8-105 Certain home improvement loans unlawful.

It shall be an unlawful practice for a person to make a home solicitation of a consumer who is a senior citizen where a loan is made encumbering the primary residence of that consumer for the purposes of paying for home improvements and where the transaction is part of a pattern or practice in violation of either subsection (h) or (i) of 15 U.S.C. s.1639 or subsection (e) of 12 C.F.R. s.226.32.

56:8-106 Immunity from liability for third party, exception.

A third party shall not be liable for an unlawful practice under section 2 of this act unless there was an agency relationship between the person who engaged in the home solicitation and the third party.

Consumer Protection Leasing Act
New Jersey Statutes Annotated
Title 56, Chapter 12.
Consumer Contracts

56:12-60. Short title; consumer protection leasing act

Sections 1 through 8 and sections 11 through 14 of this act[1] shall be known and may be cited as the "Consumer Protection Leasing Act."

[1] N.J.S.A. §§ 56:12-60 to 56:12-67 and 56:12-68 to 56:12-70 and effective date provision.

56:12-61. Definitions

As used in sections 1 through 8 and sections 11 through 14 of this act:[1]

"Adjusted capitalized cost" means the agreed upon amount which serves as the basis for determining the periodic lease payment and a portion of the lessee's early termination liability, computed by subtracting from the gross capitalized cost any capitalized cost reduction.

"Business day" means every day other than a Saturday, a Sunday, or a day on which State-chartered banks in New Jersey are required to be closed.

"Capitalized cost reduction" means any payment made by cash, check, rebates or similar means that are in the nature of down payments made by the lessee and any net trade-in allowance granted by the lessor at the inception of the lease for the purpose of reducing the gross capitalized cost but does not include any periodic lease payments due at the inception of the lease or all of the periodic lease payments if they are paid at the inception of the lease.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety.

"Fair market value commercial lease" means a contract or other agreement between a lessor and a lessee in which the vehicle is to be used primarily for business or commercial purposes and which provides an option for the purchase of the vehicle by the lessee from the lessor at its fair market value at the end of the lease term.

"Fleet lease" means a contract or other agreement between a lessor and a lessee entered into after the effective date of this act and in which the

vehicles are to be used primarily for business or commercial purposes that is either: a written agreement for the use of at least two vehicles that includes an agreement for an option to use at least one additional motor vehicle; or a written agreement for the lease of five or more vehicles.

"Gross capitalized cost" means the amount, which, when reduced by the amount of the capitalized cost reduction, equals the adjusted capitalized cost. The gross capitalized cost shall include, the cost of the vehicle and, without limitation, taxes, registration, license, acquisition, assignment and other fees and charges for insurance, for a waiver of the contractual obligation to pay certain liability in the event the motor vehicle is damaged, stolen or otherwise lost, for accessories and their installation, for delivering, serving, repairing or improving the motor vehicle and for other services and benefits incidental to the lease. It may also include, with respect to a vehicle or other property traded-in in connection with a lease, the unpaid balance of any amount financed under an outstanding vehicle loan agreement or vehicle retail installment contract or the unpaid portion of the early termination obligation under any other obligation of the lessee.

"Lease" means a contract or other agreement between a lessor and a lessee, other than a fleet lease, a fair market value commercial lease, or a TRAC lease, entered into after the effective date of this act for the use of a motor vehicle by the lessee for a period of time exceeding 120 days, whether or not the lessee has the option to purchase or otherwise become the owner of the motor vehicle at the expiration of the lease. A lease shall not be deemed to be a retail installment contract, as defined in subsection (b) of section 1 of P.L.1960, c. 40 (C.17:16C-1), unless the lessee, for no or for a nominal consideration, becomes the owner, or has the option of becoming the owner, of the motor vehicle at the end of the term of the lease.

"Leasing dealer" means a person who, in the ordinary course of business, offers or enters into motor vehicle leases or who in the course of any 12-month period offers or enters into more than three motor vehicle leases. The term "leasing dealer" shall not include a person to whom a lease is assigned by a leasing dealer.

"Lessee" means a person who leases a motor vehicle under a lease.

"Lessor" means a leasing dealer who holds title to a motor vehicle leased to a lessee under a lease or a leasing dealer who holds the lessor's rights under the lease or a person to whom a lease is assigned.

"Motor vehicle" or "vehicle" means a motor vehicle as defined in R.S.39:1-1, except the living facilities of motor homes.

"Purchase option price" means total cost to the lessee, excluding sales tax, to purchase the motor vehicle at the end of the lease term.

"Residual value" means the projected fair market value of the motor vehicle at the end of the lease term.

"TRAC lease" means a contract or other agreement between a lessor and a lessee which contains a "terminal rental adjustment clause," as that provision is defined in subsection (h) of 26 U.S.C. s.7701.

[1]N.J.S.A. §§ 56:12-60 to 56:12-67 and 56:12-68 to 56:12- 70.

56:12-62. Lease requirements; contents; disclosures

Every lease:

a. Shall be in writing and contain all of the terms and conditions of the lease agreement between the lessor and the lessee and shall be signed by the lessor and lessee;

b. Shall state the names and addresses of all parties, and the phone number of the leasing dealer. If the dealer knows the identity of the party to whom the leasing dealer intends to assign the lease, the dealer shall include in the lease the name, address and telephone number of the assignee. If the leasing dealer does not include the name, address and telephone number of the assignee in the lease, the dealer or the assignee shall, promptly upon assignment, mail or personally deliver to the lessee the name, address and telephone number of the assignee;

c. Shall state the dates when the lease is executed by the parties;

d. Shall identify the lease with the term "lease" in 14-point bold type and shall be in a style and format to be determined by the director by regulation;

e. Shall be completed in full without any blank spaces to be filled in after the lease is signed by the lessee;

f. Shall specify the periodic basis or intervals when the lease payments shall be payable;

g. Shall provide the following information concerning the conditions of the lease:

(1) Whether or not the lessee has the option to purchase the motor vehicle at the end of the lease term, and if so, either:

(a) the purchase option price, or

(b) the method for ascertaining the purchase option price. If the lease includes a method for determining the purchase option price, and that method is based upon an amount set forth in a publication, the identity of the publication and the classification contained within the publication to be used, shall be included. If the publication ceases to exist, the lessor shall immediately notify the lessee of that fact and inform the lessee of the identity of the comparable publication which will be utilized to ascertain the purchase option price. If a method for ascertaining the purchase option price not set forth in a publication is included in the lease, the lease shall set forth a good faith estimate of the amount, using that method;

(2) The total amount of all payments required at the inception of the lease term, including any refundable security deposit, any trade-in allowance and any nonrefundable payment such as a down payment or capitalized cost reduction, required at the beginning of the lease, or a statement that no payment is required at the beginning of the lease;

(3) The number of periodic payments to be paid during the term of the lease and the amount of each payment;

(4) A description of the standards to be used by the lessor in determining excessive wear or damage, and any liability the lease imposes upon the lessee at the end of the term of the lease, including any liability which may be imposed upon the lessee because of excessive wear or damage of the motor vehicle and any disposition costs imposed upon the lessee;

(5) (a) If the lease contains a purchase option, the total cost of the lease, assuming there is no default and that the lessee exercises the purchase option at the end of the term of the lease, which shall be the sum of: (i) the total amount of all payments required at the beginning of the lease; (ii) the total amount to be paid in periodic payments during the term of the lease; (iii) the amount of any liability the lease imposes upon the lessee at the end of the term of the lease; and (iv) the purchase option price.

(b) If the lease does not contain a purchase option or if the purchase option price is not set forth in the lease, the total

fixed cost of the lease, which shall be the sum of (i), (ii) and (iii) of subparagraph (a) of this paragraph.

(c) For purposes of calculating the total cost of the lease under subparagraph (a) of this paragraph or the total fixed cost of the lease under subparagraph (b) of this paragraph, the amount of the refundable security deposit and insurance shall be excluded;

(6) The formula which shall be used by the lessor to calculate the total liability of the lessee if the lease is terminated by the lessee;

(7) The residual value of the vehicle;

(8) The total number of miles or the number of miles per month or year which the vehicle may be driven without additional charge as permitted under the terms of the lease, and the charge per mile for the miles driven in excess of that permissible mileage;

(9) The liability of the lessee in the event the motor vehicle is damaged, stolen or otherwise lost. In the event the motor vehicle is damaged, stolen or lost and is deemed a total loss by the insurance company, and the lease contains a provision whereby the difference between the insurance proceeds and the amount due under the terms of the lease shall be waived if the lessor receives the insurance proceeds and if the lessee has otherwise complied with all other promises contained in the lease (including, where applicable, the requirement that the lessee pay the deductible under any insurance coverage), the lease shall disclose that the lessee shall have no further liability. Otherwise, the lease shall disclose the option on the part of the lessee to purchase from the lessor or from a third party, either insurance or damage waivers, if available, to indemnify him for the difference between the insurance proceeds and the amount due under the terms of the lease;

(10) The gross capitalized cost of the vehicle, the capitalized cost reduction and the adjusted capitalized cost when the cost of the vehicle for the purpose of calculating the gross capitalized cost exceeds the manufacturer's suggested retail price; and

h. Shall provide the following information concerning the motor vehicle to be leased:

(1) If the odometer reads in excess of 1,000 miles, an explanation of the prior use of the motor vehicle using the following terms, as applicable: personal, family or household, demonstrator, livery, daily rental, police, prior wreckage, unknown; provided that the lessor may insert "unknown" only if the lessor does not know the prior use of the motor vehicle;

(2) The odometer reading at the beginning of the lease term;

(3) The make, model, and year;

(4) The number of engine cylinders;

(5) Whether the transmission is automatic or manual;

(6) Whether the brakes and steering mechanism are power assisted or manual;

(7) Whether or not the vehicle is air conditioned;

(8) The vehicle identification number of the vehicle; and

(9) If the vehicle is required to have a Monroney label, the manufacturer's suggested retail price as set forth on the Monroney label.

56:12-63. Disclosures made in lease or in addendum to lease

The disclosures required by subsections g. and h. of section 3 of this act[1] may be made in the lease or in an addendum to the lease. If the required disclosures are made in an addendum to the lease, the addendum shall refer to the lease, and shall be separately signed by the lessee prior to signing the lease.

[1]N.J.S.A. § 56:12-62.

56:12-64. Compliance with requirements of federal law

Compliance with the requirements of the federal "Consumer Leasing Act of 1976," Pub. L. 94-240 (15 U.S.C. § 1667 et seq.) and Federal Reserve Board Regulation M, 12 CFR § 213, to the extent that they are substantially similar to the requirements of this act, as the same may be amended from time to time, shall constitute compliance with subsections f. and g. of section 3 of this act.[1]

[1]N.J.S.A. § 56:12-63.

56:12-65. Default on lease; cancellation or termination of lease; notice required

a. If a lessee is 15 days or more in default of the periodic payments due on the lease and the lessor wishes to declare a default and cancel or terminate the lease, the lessor shall personally deliver to the lessee or send by first class, certified mail at the lessee's last known address as shown on the records of the lessor, a notice of cancellation. A lessee who is in default under a lease solely for failure to make a payment required by the lease shall have the right to reinstate the lease, subject to the provisions of this section. If the lessee has the right to reinstate the lease, the notice of cancellation shall provide that the lessee has 15 days to reinstate the lease by paying all past due periodic payments, late fees and other amounts due under the lease, and, if the motor vehicle has been repossessed, the cost to the lessor of repossessing, storing and transporting the motor vehicle. Such costs may include a reasonable attorney's fee and court costs, if actually incurred by the lessor and if provided for in the lease. Upon payment within the 15-day period to the lessor of the amounts due, the lessor shall reinstate the lease as if the lessee had not been in default of payment. The lessor shall not be required to reinstate a lease more than once during the term of the lease. The lessee has no right to reinstatement if the default is for any reason other than or in addition to the failure to make a payment required by the lease.

b. In the event of the death of a lessee before the expiration of a lease, there shall be no default if the lessee's surviving spouse continues to make payments to the lessor in accordance with the terms of the lease notwithstanding the death of the lessee.

56:12-66. Excessive wear or damage to leased vehicle; professional appraisal; invoice

a. Where the lessee is liable at the end of the lease term for charges for excessive wear and damage to the motor vehicle, the lease (or the addendum) shall contain a statement that the lessee may obtain at the end of the lease term, at the lessee's expense, a professional appraisal of the amount required to repair or replace parts or the amount which the excessive wear and damage reduces the value of the vehicle. This professional appraisal shall be performed by an independent third party agreed to by the lessee and the lessor, which appraisal shall be final and binding on the parties.

b. Within 10 business days of the return of the motor vehicle to the lessor, the lessor shall mail or deliver to the lessee an invoice for amounts claimed by the lessor for excess wear and damage. The invoice shall contain in 10 point bold face type a notice of the lessee's right under subsection a. of this section to obtain an independent appraisal of excess wear and damage. The notice shall also provide that: (i) the lessor must be advised in writing within seven business days following the earlier of the date of the mailing or delivery of the invoice if the lessee elects to obtain an independent appraisal; (ii) any such appraisal must be conducted within ten business days following the date that the lessor is notified of the lessee's election; and (iii) that if the lessee fails to notify the lessor within the time allotted that the lessee has elected an independent appraisal, the lessor's invoice will be deemed to be final and binding on the parties.

c. Within 15 business days after the lessee's obligations under the lease have been determined and satisfied, which shall include but not be limited to, the lessee's liability for excess wear and damage under this section, the lessor shall credit to the lessee's account or mail to the lessee any refund of any security deposit due to the lessee.

d. Nothing in this section shall limit the lessee's obligation for any charge for excess mileage as provided in the lease.

56:12-67. Vehicle to be returned if credit not approved; notice required

a. No leasing dealer may permit a prospective lessee to take possession of a motor vehicle subject to a lease if such lease is contingent upon the approval of the lessee's credit unless the lessee is provided with, and acknowledges receipt of a notice on a separate page from any other notice, term or condition of the lease, which provides substantially the following: NOTICE: YOUR LEASE IS SUBJECT TO CREDIT APPROVAL. IF YOUR CREDIT IS NOT APPROVED YOU MUST RETURN THE VEHICLE. The notice may contain the name, address, phone number and logo of the leasing dealer, and shall contain an acknowledgement by the lessee of the receipt of the notice.

b. (1) No lease shall bind a lessee or lessor unless both the lessee and lessor have had one business day to review the lease contract before the signing of the contract.

(2) No leasing dealer may permit a prospective lessee to take possession of a motor vehicle subject to a lease unless the lessee is provided with a conspicuous notice which provides substantially the following: NOTICE: THE LESSEE AND THE LESSOR SHALL BE ENTITLED TO REVIEW THE CONTRACT FOR ONE BUSINESS DAY BEFORE SIGNING THE CONTRACT IMMEDIATELY ADJACENT TO THE SIGNATURE LINE OF THE CONTRACT.

c. The leasing dealer shall complete the credit check of the prospective lessee within 5 business days of both the leasing dealer and lessee signing the lease.

56:12-68. Consumer awareness program

The director shall implement a consumer awareness program which shall advise consumers of the requirements, protections and benefits provided by this act.

56:12-69. Rules and regulations

The director shall promulgate rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C. 52:14B-1 et seq.) as may be needed to effectuate the purposes of this act.

56:12-70. Violations; unlawful practice

It is an unlawful practice and a violation of P.L.1960, c. 39 (C. 56:8-1 et seq.) to violate any provision of this act.